

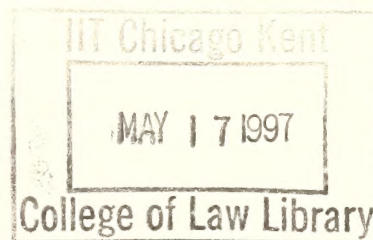
1997

Illinois Register

Rules of Governmental Agencies

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Pages 5968 - 6133



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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1997

Material Rec'd after Noon on:	And before Noon on:	Will be in Issue #:	Published on:	Material Rec'd after Noon on:	And before Noon on:	Will be in Issue #:	Published on:
Dec. 24, 1996	Dec. 31, 1996	1	Jan. 3, 1997	July 1, 1997	July 8, 1997	28	July 11, 1997
Dec. 31, 1996	Jan. 7, 1997	2	Jan. 10, 1997	July 8, 1997	July 15, 1997	29	July 18, 1997
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Jan. 28, 1997	Feb. 4, 1997	6	Feb. 7, 1997	Aug. 5, 1997	Aug. 12, 1997	33	Aug. 15, 1997
Feb. 4, 1997	Feb. 11, 1997	7	Feb. 14, 1997	Aug. 12, 1997	Aug. 19, 1997	34	Aug. 22, 1997
Feb. 11, 1997	Feb. 18, 1997	8	Feb. 21, 1997	Aug. 19, 1997	Aug. 26, 1997	35	Aug. 29, 1997
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Mar. 4, 1997	Mar. 11, 1997	11	Mar. 14, 1997	Sept. 9, 1997	Sept. 16, 1997	38	Sept. 19, 1997
Mar. 11, 1997	Mar. 18, 1997	12	Mar. 21, 1997	Sept. 16, 1997	Sept. 23, 1997	39	Sept. 26, 1997
Mar. 18, 1997	Mar. 25, 1997	13	Mar. 28, 1997	Sept. 23, 1997	Sept. 30, 1997	40	Oct. 3, 1997
Mar. 25, 1997	Apr. 1, 1997	14	Apr. 4, 1997	Sept. 30, 1997	Oct. 7, 1997	41	Oct. 10, 1997
Apr. 1, 1997	Apr. 8, 1997	15	Apr. 11, 1997	Oct. 7, 1997	Oct. 14, 1997	42	Oct. 17, 1997
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Apr. 22, 1997	Apr. 29, 1997	18	May 2, 1997	Oct. 28, 1997	Nov. 4, 1997	45	Nov. 7, 1997
Apr. 29, 1997	May 6, 1997	19	May 9, 1997	Nov. 4, 1997	Nov. 10, 1997*	46	Nov. 14, 1997
May 6, 1997	May 13, 1997	20	May 16, 1997	Nov. 10, 1997*	Nov. 18, 1997	47	Nov. 21, 1997
May 13, 1997	May 20, 1997	21	May 23, 1997	Nov. 18, 1997	Nov. 25, 1997	48	Dec. 1, 1997*
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June 17, 1997	June 24, 1997	26	June 27, 1997	Dec. 23, 1997	Dec. 30, 1997	1	Jan. 2, 1998
June 24, 1997	July 01, 1997	27	July 7, 1997*	Dec. 30, 1997	Jan. 6, 1998	2	Jan. 9, 1998

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

* Monday

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Administration of the Illinois Public Community College Act

2) Code Citation: 23 Ill. Adm. Code 1501

3) Section Numbers:
 1501.302 Proposed Action:
 Amendment
 1501.501 Amendment
 1501.521 New

4) Statutory Authority: 110 ILCS 805/3-25.1 and 2-16.02

5) A Complete Description of the Subjects and Issues Involved: The proposed revisions to ICCB rules regarding transfer degrees are needed so that these programs meet the minimum requirements of the Illinois Articulation Initiative that is scheduled for implementation in 1998. The proposed new ICCB rules regarding Technology Enhancement Grants are needed to administer grant funds to be used by community colleges for technology infrastructure improvements.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
 No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: Not Applicable

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Jill O'Shea
 Director for Governmental Relations
 Illinois Community College Board
 509 South Sixth Street, Suite 400
 Springfield, IL 62701-1874
 217/785-0213

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis: The Illinois Community College Board has determined that this rulemaking will not affect small businesses.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENT

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
 None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: The associate degree rule changes were included on the January 1997 Regulatory Agenda Technology Enhancement Grants proposed new rules were not included on either of the 2 most recent Regulatory Agendas because: Technology enhancement funds were appropriated in fiscal year 1997, but only recently became available for distribution to community colleges as a result of the passage of the capital bond authorization bill (P.A. 90-1).

The full text of the Proposed Amendments begins on the next page:

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

PART 1501

ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section	
1501.101	Definition of Terms
1501.102	Advisory Groups
1501.103	Rule Adoption (Recodified)
1501.104	Manuals
1501.105	Advisory Opinions
1501.106	Executive Director
1501.107	Information Request (Recodified)
1501.108	Organization of ICCB (Recodified)
1501.109	Appearance at ICCB Meetings
1501.110	Appeal Procedure
1501.111	Reporting Requirements (Repealed)
1501.112	Certification of Organization (Repealed)
1501.113	Administration of Detachments and Subsequent Annexations
1501.114	Recognition

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section	
1501.201	Reporting Requirements
1501.202	Certification of Organization
1501.203	Delineation of Responsibilities
1501.204	Maintenance of Documents or Information
1501.205	Recognition Standards (Repealed)

SUBPART C: PROGRAMS

Section	
1501.301	Definition of Terms
1501.302	Units of Instruction, Research, and Public Service
1501.303	Program Requirements
1501.304	Statewide and Regional Planning
1501.305	College, Branch, Campus, and Extension Centers
1501.306	State or Federal Institutions (Repealed)
1501.307	Cooperative Agreements and Contracts
1501.308	Reporting Requirements
1501.309	Course Classification and Applicability

SUBPART D: STUDENTS

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENT

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1501.402	Admission of Students
1501.403	Student Services
1501.404	Academic Records
1501.405	Student Evaluation
1501.406	Reporting Requirements

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Section	
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1501.502	Financial Planning
1501.503	Audits
1501.504	Budgets
1501.505	Nonresident Student Tuition Calculations
1501.506	Published Financial Statements
1501.507	Credit Hour Grants
1501.508	Special Populations Grants
1501.509	Workforce Preparation Grants
1501.510	Reporting Requirements
1501.511	Chart of Accounts
1501.514	Business Assistance Grants (Repealed)
1501.515	Advanced Technology Equipment Grants
1501.516	Capital Renewal Grants
1501.517	Retirees Health Insurance Grants
1501.518	Uncollectible Debts
1501.521	Technology Enhancement Grants

SUBPART F: CAPITAL PROJECTS

Section	
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1501.602	Approval of Capital Projects
1501.603	State Funded Capital Projects
1501.604	Locally Funded Capital Projects
1501.605	Project Changes
1501.606	Progress Reports (Repealed)
1501.607	Reporting Requirements
1501.608	Approval of Projects in Section 3-20.3.01 of the Act
1501.609	Completion of Projects Under Section 3-20.3.01 of the Act
1501.610	Demolition of Facilities

SUBPART G: STATE COMMUNITY COLLEGE

Section	
1501.701	Definitions of Terms
1501.702	Applicability

ILLINOIS COMMUNITY COLLEGE BOARD

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1501.703 Recognition
 1501.704 Programs
 1501.705 Finance
 1501.706 Personnel
 1501.707 Facilities

SUBPART H: PERSONNEL

Section
 1501.801 Definition of Terms
 1501.802 Sabbatical Leaves

AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act (110 ILCS 805/Arts. II and III and 6-5.3).

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16913, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective April 22, 1997; amended at 21 Ill. Reg. _____, effective _____.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART C: PROGRAMS

Section 1501.302 Units of Instruction, Research, and Public Service

a) Approval of New Units of Instruction. Each proposed new unit of instruction shall be submitted to the ICCB for approval. The criteria for approval of new units of instruction, which also apply to existing programs offered by community colleges, are:

1) Mission and Objectives.

A) The objectives of the unit of instruction are consistent with the mission of the college as set forth in Section 1-2(e) of the Public Community College Act.

B) The objectives of the unit of instruction are consistent with what the title of the unit of instruction implies.

2) Academic Control.

A) The design, conduct, and evaluation of the unit of instruction are under the direct and continuous control of the college's established processes for academic planning and quality maintenance, and clear provision is made for ensuring a high level of academic performance of faculty and students.

B) The admission, course placement, and graduation requirements for the unit of instruction are consistent with the stated objectives of the unit of instruction and with Section 3-17 of the Act where applicable.

3) Curriculum. The content of the curriculum ensures that the objectives of the unit of instruction will be achieved.

A) The range of total number of credit hours required for completion of an associate degree curriculum shall be within the following parameters:

i) For the Associate in Arts degree and the Associate in Science degree, a total requirement of not less than 60 semester credit hours nor more than 64 semester credit hours or the quarter credit hour equivalent;

ii) For the Associate in Fine Arts and the Associate in Engineering Science degree, a total requirement of not less than 60 semester credit hours nor more than 68 semester credit hours or the quarter credit hour equivalent;

iii) For the Associate in Applied Science degree, a total requirement of not less than 60 credit hours nor more than 72 semester credit hours or the quarter credit hour equivalent, except in such occupational fields in which accreditation or licensure by a state or national organization requires additional coursework; and

iv) For the Associate in General Studies degree, a total requirement of not less than 60 semester credit hours

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nor more than 64 semester credit hours or the quarter credit hour equivalent.

- B) Each associate degree curriculum shall include a specific general education component consisting of coursework in communication, arts and humanities, social and behavioral sciences, and mathematics and science within the following parameters:

- i) For the Associate in Arts degree and the Associate in Science degree, the general education component required will represent at least 3730 semester credit hours or the quarter hour equivalent for completion;
- ii) For the Associate in Fine Arts degree ~~and---the Associate---in---Engineering-Science-degree~~, the general education component required will represent at least 2527 semester credit hours or the quarter hour equivalent for completion;
- iii) For the Associate in Engineering Science degree, the general education component required will represent at least 19 semester credit hours or the quarter hour equivalent for completion;

- iv) ~~For the Associate in Applied Science degree, the general education component required will represent at least 15 semester credit hour or the quarter hour equivalent for completion; and~~

- v) ~~For the Associate in General Studies degree, the general education component required will represent no less than 20 semester credit hours or the quarter hour equivalent for completion.~~

4) Faculty and Staff.

- A) The academic preparation and experience of faculty and staff ensure that students receive education consistent with the objectives of the unit of instruction.

- B) The involvement of faculty in the unit of instruction is sufficient to cover the various fields of knowledge encompassed by the curriculum, to sustain scholarship appropriate to the unit of instruction, and to ensure curriculum continuity.

- C) Support personnel, including counselors, administrators, clinical supervisors, and technical staff, have the educational background and experience necessary to carry out their assigned responsibilities.

5) Support Services.

- A) Facilities, equipment, and instructional resources (e.g., laboratory supplies and equipment, instructional materials, computation equipment) necessary to provide quality instruction will be available and maintained.

- B) Library holdings and acquisitions necessary to support quality instruction and scholarship are available,

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- accessible, and maintained.
- C) Provision is made for the guidance and counseling of students, the evaluation of student performance, the continuous monitoring of progress of students toward their degree or certificate objectives, the placement of completers of the unit of instruction, and appropriate academic record keeping.

6) Financing.

- A) The financial commitments to support the unit of instruction are sufficient to ensure that the stated objectives can be attained and that the faculty, staff, and support services necessary to offer the unit of instruction can be acquired and maintained.

- B) Projections of revenues necessary to support the unit of instruction are based upon supportable estimates of general revenue, student tuition and fees, private gifts, and/or governmental grants and contracts.

7) Public Information.

- The information that the college provides to students and the public accurately describes: the unit of instruction offered; the objectives of the unit of instruction; length of the unit of instruction; residency requirements, if any; schedule of tuition, fees, and all other charges and expenses necessary for completion of the unit of instruction; cancellation and refund policies; and such other material facts concerning the college and the unit of instruction as are likely to affect the decision of the student to enroll.

8) Accreditation and Credentialing.

- A) Appropriate steps have been taken to ensure that accreditation of the proposed new unit of instruction will be granted in a reasonable period of time.

- B) The proposed new unit will provide the skills required to obtain individual credentialing (certification, licensure, registration) needed for entry into an occupation as specified in the objectives of the proposed new unit of instruction.

9) Program Needs and Priorities.

- A) The unit of instruction must be educationally and economically justified based on the educational priorities and needs of the citizens of Illinois and the college's district.

- B) The unit of instruction meets a need that is not currently met by units of instruction which are offered by other institutions in the district.

- b) Approval of New Administrative Units of Research or Public Service. An application for approval of each proposed new administrative unit of research or public service shall be submitted to the ICCB on forms provided by the ICCB. The criteria for approval of new administrative

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units of public service or research are:

- 1) The proposed new administrative unit shall be authorized by the board of trustees.
 - 2) The objectives of the proposed new administrative unit are consistent with the mission of the college (see Section 1-2(e) of the Act).
 - 3) The proposed new administrative unit shall meet a district's need to deliver a public service or research program which cannot be met through the district's current structure as indicated by an organizational chart.
 - 4) The proposed new administrative unit shall administer at least one public service or research program.
 - 5) The needs assessment demonstrates that the demand for the public service or research program to be administered by the proposed new unit shall be continuous for at least three years.
 - 6) The district shall provide evidence that the resources for the facilities, equipment and materials, and staff necessary to provide a quality program or service shall be made available to the proposed new administrative unit.
- c) Withdrawal. An approved unit of instruction, public service, or research may be withdrawn by the college when it decides to suspend operation of the unit. The withdrawal request shall be reported on forms supplied by the ICCB.
- d) Reasonable and Moderate Extensions.

- 1) An approved unit of instruction, public service, or research may be modified by the college within the parameters listed in subsections **subsection (d)(2) through (4)**. The college shall notify the ICCB of such extensions on forms provided by the ICCB.
- 2) Reasonable and moderate extensions of previously approved units of instruction include:

- A) The addition, modification, or withdrawal of courses within an approved unit of instruction which does not alter the objectives of the unit of instruction.
- B) A change in minimum credit hours for completion of an approved unit of instruction that does not affect the instructional level of the unit of instruction.
- C) A change in title of an approved unit of instruction that does not indicate a different objective of the unit than that previously approved.
- D) The creation of an option (major, concentration, or specialization) within an approved unit of instruction in which:
 - i) the option created is within the same general academic discipline or occupational field as the previously approved unit of instruction,
 - ii) the option created within a previously approved associate degree curriculum shares a common core of first-year courses with the previously approved unit

ILLINOIS COMMUNITY COLLEGE BOARD

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- of instruction, and
- iii) the option created does not substitute more than ~~fifteen~~ **fourteen** ~~15~~ semester credit hours of other courses for courses previously approved as part of an associate degree curriculum or cluster of closely related curricula, e.g., from the same four-digit CIP code or substitute more than ~~nine~~ **nine** ~~9~~ semester credit hours of other courses for courses previously approved as part of a certificate curriculum (or closely related cluster) of 30 semester credit hours or more.
- E) The creation of certificate curricula from previously approved associate degree curricula and certificate curricula, including closely related curricula; e.g., from the same four-digit CIP code, providing no more than ~~six~~ **six** ~~6~~ semester credit hours are substituted for certificates of up to ~~thirty~~ **thirty** ~~30~~ semester credit hours or no more than ~~nine~~ **nine** ~~9~~ credit hours are substituted in certificates of ~~thirty~~ **thirty** ~~30~~ semester credit hours or more.

- 3) Reasonable and moderate extensions of previously approved units of research or public service include units with an annual operating expenditure from whatever source of less than \$250,000 or an annual operating expenditure from state appropriations of less than \$50,000.

- 4) Reasonable and moderate extensions of previously approved units of administration include any administrative reorganization of a college.

- e) Approval in a Multi-College District. Approval of new units of instruction, research, or public service in a multi-college district will be for a specific college. Transfer of a unit to, or duplication of a unit by, other colleges within the district constitutes a new unit requiring approval by the ICCB. However, up to ~~nine~~ **nine** ~~9~~ hours of a program approved at one college may be offered by any other college in the district at the option of the Board.

- f) When a college no longer offers an approved unit of instruction to additional new students, that unit of instruction shall be reported to the ICCB and shall be removed from the college catalog and other documents advertising the program offerings to the public.

- 1) An inactive unit of instruction shall be maintained on the ICCB Curriculum Inventory File with the date that it became inactive for a period of at least ten years. The effective date that a unit of instruction becomes inactive shall be determined by the college.

- 2) A unit of instruction that has been inactive for less than three years may be reactivated by the college once it has completed the following:

- A) Obtained approval to reactivate the program from its chief executive administrator.
- B) Obtained approval to reactivate the program from agencies

ILLINOIS COMMUNITY COLLEGE BOARD

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that license, certify, or accredit the program, if appropriate.

- C) Submitted a notification to the ICCB.
- 3) A unit of instruction that has been inactive for three to ten years may be reactivated by the Executive Director of the ICCB if the college has completed the following:

A) Obtained approval to reactivate the program from its chief executive administrator.

B) Obtained approval to reactivate the program from agencies that license, certify, or accredit the program, if appropriate.

C) Demonstrated through local surveys or state labor market data that the labor market demand and supply shows a need for graduates of the program.

D) Conducted a review of the program with representatives from business and industry including on-site visits and advice regarding current technologies and equipment.

E) Demonstrated, in accordance with subsections (a)(5) and (a)(6) of this Section and Section 1501.510, that the college has adequate facilities, equipment and financial resource to offer a quality program.

F) Demonstrated, in accordance with Section 1501.303(f), that the college has available qualified faculty to provide the instruction for the program.

G) Submitted a request for the reactivation to the ICCB.

- 4) A unit of instruction that has been inactive for over ten years may be reactivated by following the new unit approval process described in subsection (a) of this Section.

- 9) Discontinuation of Programs. The ICCB may discontinue programs which fail to reflect the education needs of the area being served as follows:

- 1) Programs that do not meet standards of need, quality, and cost effectiveness may be discontinued by the ICCB. This determination shall be made based on review and collective findings of information available to the ICCB through ICCB and IBHE program review, evaluation, and productivity processes; the ICCB Management Information System; and other sources of pertinent information on the following criteria:

A) Program need, including educational priorities of the district, accessibility, credit hours generated, enrollments, completions, and labor market supply and demand.

B) Program quality, including job placement or education continuation, program content, academic control, faculty qualifications, and accreditation and credentialing.

C) Program costs, including adequacy of financial support and unit costs.

- 2) The ICCB will utilize special state-level analyses to identify

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programs that appear to be of questionable need, cost, or quality based on state data. Programs identified through state-level analysis will be referred to the colleges to enable them to evaluate the programs in detail in their normal process and to obtain the results and comments from the local level.

- 3) The ICCB will notify college districts of programs being considered for discontinuation and shall grant the district 60 days to respond to concerns regarding the program in question prior to action by the Board. This information shall be taken into account in determining if a program should be discontinued by the ICCB.

- 4) Once a program is discontinued by the ICCB and the appeal process is concluded, the college must inactivate the program by not enrolling any additional new students and develop a plan for an orderly discontinuation of the program for students currently enrolled. Programs discontinued by the ICCB may be reestablished by obtaining approval as a new unit of instruction under subsection (a) of this Section.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART E: FINANCE

Section 1501.501 Definition of Terms

Advanced Technology Equipment Grant. The advanced technology equipment grant provides state funds to Illinois public community colleges for the procurement of equipment necessary to upgrade curricula impacted by technological changes. (See Section 2-16 of the Act.)

Annual Financial Statement. The "annual financial statement," which is required to be published by a district, consists of two parts:

an annual financial report, which includes a statement of revenues and expenditures along with other basic financial data; and

an annual program report, which provides a narrative description of programs offered, goals of the district, and student and staff data.

Attendance at Mid-Term. A student is "in attendance at mid-term" in a course if the student is currently enrolled in and actively pursuing completion of the course.

Auditor. An auditor is a person who enrolls in a class without intent

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to obtain academic credit and whose status as an auditor is declared by the student, approved by college officials, and identified on college records prior to the end-of-registration date of the college for that particular term.

Business Assistance Centers and Workforce Preparation Offices. Business assistance centers and workforce preparation offices are entities at community colleges that conduct, coordinate, and assist with workforce preparation activities.

Capital Renewal Grants. Capital renewal grants are state grants allocated proportionally to each community college district based on the latest fall on-campus nonresidential gross square feet of facilities as certified by the ICCB. Such grants are to be utilized for miscellaneous capital improvements such as rehabilitation, remodeling, improvement, and repair; architect/engineer services; supplies, fixed equipment, and materials; and all other expenses required to complete the work.

Lincoln's Challenge Scholarship Grants. The Lincoln's Challenge Program is administered by the Illinois Department of Military Affairs. Upon successful completion of that program, student's qualify for a scholarship to a community college. The Lincoln's Challenge Scholarship Grant is a special appropriation received by the ICCB from the Governor and the General Assembly. These scholarships provide an opportunity for graduates of Lincoln's Challenge to transition easily into higher education by attending one of the 49 public community colleges in the State. The scholarship grants can be used to cover the cost of education that includes tuition, books, fees and required educational supplies.

Residency - Applicability-Verification of Status. As part of verification that its credit hours are eligible to receive ICCB grants, each community college district shall adopt a process for verifying the residency status of its students and shall file a description of this process with the ICCB by July 1, 1990. The process shall include the methods for verifying residency as defined in the general provisions, special state provisions, and district provisions of this subsection. Each district shall file descriptions of any revisions to its process with the ICCB prior to their implementation.

Residency - General Provisions. The following provisions apply both to state and district residency definitions:

To be classified as a resident of the State of Illinois or of the community college district, each student shall have occupied a dwelling within the state or district for at least 30 days

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immediately prior to the date established by the district for classes to begin.

The district shall maintain documentation verifying state or district residency of students.

Students occupying a dwelling in the state or district who fail to meet the 30-day residency requirement may not become residents simply by attending classes at a community college for 30 days or more.

Students who move from outside the state or district and who obtain residence in the state or district for reasons other than attending the community college shall be exempt from the 30-day requirement if they demonstrate through documentation a verifiable interest in establishing permanent residency.

Residency - District Provisions. Students shall not be classified as residents of the district where attending even though they may have met the general 30-day residency provision if they are:

federal job corps workers stationed in the district;

inmates of state or federal correctional/rehabilitation institutions located in the district;

full-time students attending a postsecondary educational institution in the district who have not demonstrated through documentation a verifiable interest in establishing permanent residency; and

students attending under the provisions of a chargeback or contractual agreement with another community college.

Residency - Special State Provisions. Students shall be classified as residents of the state without meeting the general 30-day residency provision if they are:

federal job corps workers stationed in Illinois;

members of the armed services stationed in Illinois;

inmates of state correctional/rehabilitation institutions located in Illinois; or

employed full time in Illinois.

Special Initiatives Grants. Special initiatives grants provide funds

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for conducting special initiatives activities.

Special Initiatives Activities. Special initiatives activities are based upon criteria as specified in the special initiatives contract which is executed each year with each district. As special initiatives change, the scope of activities specified in the contracts will also change.

Special Populations Grant. A "special populations grant" provides funding for:

Special or extra services to assist special populations students to initiate, continue, or resume their education, including tutoring, educational and career counseling, referrals to external agencies, and testing/evaluation to determine courses or services needed by a special populations student.

Courses (not funded through credit hour grants) to provide the academic skills necessary to remedy or correct educational deficiencies to allow the attainment of educational goals, including remedial, adult basic education, adult secondary education, and English as a Second Language courses.

Special Populations Student. A "special populations student" is student with a social, physical, developmental, or academic disability that makes it difficult for such a student to adapt to a college environment designed for the nonspecial populations student. This may include students from minority racial/ethnic groups. Colleges shall designate which of their students are special populations as determined by teacher and counselor evaluations and various standardized tests selected by the colleges.

Technology Enhancement Grants. Technology enhancement grants provide state funds for technology infrastructure improvements. Grants shall be distributed to community colleges based upon midterm semester or equivalent credit hours and/or other measures as determined by the State Board.

Workforce Preparation Activities. Workforce preparation activities create or retain jobs and increase employment opportunities.

Workforce Preparation Grants. Workforce preparation grants provide funds for conducting workforce preparation activities.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- a) Requests for technology enhancement grants shall be submitted in a format prescribed by the ICCB.
- b) Eligibility for technology enhancement grants shall include the local district board of trustees' approval of the project and certification of the availability of a 25 percent contribution to the total project cost.
- c) Funds received from this grant shall be accounted for in the Operations, Building, and Maintenance Fund (Restricted) (see Section 1501.511(a)(7)).
- d) Other sources of funding may be added to technology enhancement grant funds to finance larger projects.
- e) Grant funds shall only be used in facilities owned by the district.
- f) Allowable expenditures of funds will be specified in a grant agreement executed with each Illinois public community college district eligible to receive the technology enhancement grant funds.
- g) Technology enhancement grant funds shall be expended within the grant period as specified in the grant agreement and pursuant to the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705].
- h) Technology enhancement grant funds not used in accordance with this Section regardless of the amount shall be returned to the ICCB within six months after receipt of the external audit report by the ICCB or other identification of improper expenditures subsequently verified by the ICCB.
- i) Each community college district receiving grant funds shall file a report with the ICCB in a format prescribed by the ICCB, or in accordance with the terms of the grant agreement, detailing how the funds were utilized. The due dates of the reports shall be specified in the grant agreement.
- j) Authority to approve technology enhancement grant requests is delegated to the ICCB Executive Director.
- k) Projects shall be designed and constructed to meet all applicable facility codes as specified in Section 1501.603(f).

(Source: Added at 21 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Residential Mortgage License Act of 1987

2) Code Citation: 38 Ill. Adm. Code 1050

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
1050.430	Amendment
1050.440	Amendment
1050.1010	Amendment
1050.1335	Amendment

4) Statutory Authority: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635]

5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking establishes new requirements pertaining to escrow accounts for licensees under the Act. Third party fees collected in advance of closing may be commingled with licensee assets, but all other fees collected prior to closing must be escrowed. The escrowing of these fees will give consumers added protection and place the licensee in the capacity of a fiduciary over the consumers' funds. Escrow arrangements would be subject to examination by the Office of Banks and Real Estate (OBRE). A licensee would be authorized to retain certain fees, even if a loan does not close, provided the fees were properly disclosed and made part of a signed, written agreement, and if the borrower withdraws the application, misrepresents application information, or fails to provide necessary documentation. The proposed changes are the product of lengthy discussions between OBRE and industry representatives, including the Illinois Association of Mortgage Brokers.

The proposed rulemaking also makes a technical correction in Section 1050.430 to make it consistent with new statutory language enacted by Public Act 89-74.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not affect local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

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John Arthur, Legislative Liaison
Office of Banks and Real Estate
500 East Monroe, Suite 900
Springfield, Illinois 62701
Telephone: (217) 782-3000

The Agency will consider all written comments it receives in writing within 45 days of the date of publication of this *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Licensees under the Residential Mortgage License Act of 1987.

B) Reporting, bookkeeping or other procedures required for compliance: Licensee will comply with new escrow account requirements as set forth in the rulemaking.

C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Amendment begins on the next page:

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TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 1050

RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

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1050.270	Hearing Fees
1050.280	Late Fees (Repealed)
1050.290	Manner of Payment

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1050.310	Application for an Illinois Residential Mortgage License
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1050.440	Escrow
1050.450	Audit Workpapers
1050.460	Selection of Independent Auditor
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1050.490	Bonding Requirements

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

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1050.610	Filing Requirements
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1050.630	Annual Report of Mortgage Activity
1050.640	Annual Report of Brokerage Activity
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1050.710	Computation of National Residential Mortgage Foreclosure Rate
1050.720	Computation of Illinois Residential Mortgage Foreclosure Rate
1050.730	Excess Foreclosure Rate
1050.740	Foreclosure Rate Hearing
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Section	
1050.810	New Loans
1050.820	Transfer of Servicing
1050.830	Real Property Tax and Hazard Insurance Payments
1050.840	Payment Processing
1050.850	Toll-Free Telephone Arrangement
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SUBPART H: ADVERTISING

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1050.910 General Prohibition
 1050.920 Definition of Advertisement
 1050.930 Compliance with Other Laws
 1050.940 Requirements
 1050.950 Misleading and Deceptive Advertising Prohibition

SUBPART I: LOAN BROKERAGE PRACTICES

Section
 1050.1010 Loan Brokerage Agreement
 1050.1020 Loan Brokerage Disclosure Statement
 1050.1030 Prohibited Practice

SUBPART J: LOAN APPLICATION PRACTICES

Section
 1050.1110 Borrower Information Document
 1050.1120 Description of Required Documentation
 1050.1130 Maintenance of Records (Repealed)
 1050.1140 Loan Application Procedures
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SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

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AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg.

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3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8883, and new Part adopted at 12 Ill. Reg. 8695, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645, amended at 21 Ill. Reg. _____, effective _____.

SUBPART D: OPERATIONS AND SUPERVISION

Section 1050.430 Late Audit Reports

Audit reports which are not delivered within 90 one-hundred-twenty (120) days after of the date specified in Section 3-2 of the Act, unless extended for cause by the Commissioner, shall cause the licensee to pay a fee at the rate of \$50 per calendar day for up to three months. An independent auditor may be appointed by the Commissioner at the expense of the licensee at any time after the 90th 120th day. To qualify for an extension of time, a licensee shall apply to the Commissioner in writing at least fifteen (15) days prior to the deadline. In determining whether to grant an extension of time, the Commissioner shall consider whether such extension of time is based on conditions beyond the control of the licensee. The Commissioner shall appoint an independent auditor when the licensee is engaged in the activities of residential mortgage lending and has failed after the 90th 120th day to submit the required certified annual audited financial statements, and has not been granted an extension by the Commissioner.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1050.440 Escrow

- a) Escrow funds shall be disclosed as a part of the licensee's financial statement package. Escrow funds collected pursuant to Section 1050.1335 of this Part and pursuant to a Rate-Back-Fee-Agreement-and

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escrow-funds for payment of real property taxes or any other purpose authorized by the mortgage contract shall be maintained in a depository institution as described in subsection (b) below and may not be commingled with any licensee funds.

- b) Where escrow funds have a Rate-Back-Fee-or-an-Assumption-Fee has been collected pursuant to Section 1050.1335 of this Part, or where servicing includes maintenance of an escrow (impound) account for payment of tax bills and/or hazard insurance premiums, the funds collected for such account, Rate-Back-Fee-or-Assumption-Fee shall be placed in a federally Federally insured depository institution, or a Federal Home Loan Bank, or a Federal Reserve Bank, or other similar government-sponsored Government-sponsored enterprise, to be removed and used only for:
- 1) authorized payments from the related escrow (impound) account for tax bills and/or hazard insurance premiums;
 - 2) refunds to the mortgagor;
 - 3) transferring to another institution as described in subsection (b) above;
 - 4) forwarding to the appropriate servicer in case of a transfer of servicing;
 - 5) any other purpose authorized by the mortgage contract;
 - 6) compliance with a regulatory or court order; or
 - 7) payment to a licensee pursuant to the provisions of Section 1050.1335 of this Part.

- c) All escrow funds are subject to examination by agents of the Commissioner.

- 7) possession-by-the-licensee-of-a-Rate-Back-Fee-or-Assumption-Fee pursuant-to-Section-1050.1335-of-this-Part:

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART I: LOAN BROKERAGE PRACTICES

Section 1050.1010 Loan Brokerage Agreement

Before a mortgage loan applicant, also referred to herein as "borrower" or "customer", signs a completed residential mortgage loan application or gives the licensee any consideration, whichever comes first, a loan brokerage agreement shall be required and shall be in writing and signed by both the mortgage loan applicant and a licensee whose services to such customer shall be loan brokering as defined at Section 1-4(o) of the Act.

- a) The loan brokerage agreement shall carry a clear and conspicuous statement that, upon request, a copy shall be made available to the borrower or the borrower's attorney for review prior to signing.
- b) Both the licensee's authorized representative and the borrower shall sign and date the loan brokerage agreement at the same time, and a copy of the executed agreement shall be given to the customer at the

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time of signing.

- c) The loan brokerage agreement shall contain an explicit description of the services the licensee agrees to perform for the borrower and a good faith estimate of all consideration and remuneration to be exchanged in conjunction with such services. In the same area of the agreement shall be language, of prominence equal to or greater than such estimate, listing the types of situations or conditions which could materially affect the amounts indicated due to details which could not be known by the licensee at the time of signing the loan brokerage agreement. "Examples of such situation or conditions may include, but not be limited to, an appraised value different from that estimated by the borrower or credit obligations which the borrower fails to report."
- d) The loan brokerage agreement shall carry a clear and conspicuous statement as to the conditions under which the borrower is obligated to pay the licensee.
- e) The loan brokerage agreement shall provide that if the licensee makes false or misleading statements in such agreement, the borrower may, upon written notice:
- 1) void the agreement;
 - 2) recover monies paid to the broker for which no services have been performed; and
 - 3) recover actual costs, including attorney fees for enforcing the borrower's rights under the loan brokerage agreement.
- f) The loan brokerage agreement shall incorporate by reference the "Loan Brokerage Disclosure Statement" described in Section 1050.1020 of this Subpart.
- g) Except for a Rate-Lock Fee Agreement in accordance with Section 1050.1335**(b)**, the loan brokerage agreement shall be the only agreement between the borrower and licensee with respect to a single loan; except, the licensee shall also provide to the customer any disclosure statement necessary to comply with federal ~~Federal~~ and State requirements, including but not limited to, the Consumer Protection Credit Act (15 U.S.C. 1601), Equal Credit Opportunity Act (Title VII), and Truth in Lending Act (Title I) and Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505).

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section 1050.1335 Fees and Charges ~~Prior-to-Closing~~

- a) Except as prohibited by federal statute or regulation, a licensee shall not require a borrower to pay any fees or charges prior to the loan closing, except charges to be incurred by the licensee on behalf of the borrower for services from third parties necessary to process

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the application, such as for credit reports and appraisals and:

- 1) Loan Fees ~~Commitment-Fee~~
- A) Loan fees ~~A-commitment-fee~~, such as origination or commitment fees, including fees detailed in the Loan Brokerage Agreement, ~~of-up-to-one-per-cent~~ may be charged prior to closing only if a licensee is able to demonstrate either that:
- i) The loan commitment is provided in writing by the funding entity and accepted in writing by the borrower; or
 - ii) The loan commitment provided in writing is consistent with a Loan Brokerage Agreement provided to the borrower pursuant to Section 1050.1010 of this Part and signed by the borrower.
- B) The loan fee, including fees detailed in the Loan Brokerage Agreement, collected prior to closing shall be deposited in escrow by the licensee in accordance with the requirements of Section 1050.440 of this Part.
- C) ~~B)~~ If the loan commitment provided by the funding entity pursuant to subsection (a)(1) is subject to any condition or conditions, and any condition is not met due to an action or lack of action on the part of the borrower, the licensee may retain the loan commitment fee. In all other cases, if the loan does not close as agreed by the licensee and the borrower, the licensee shall refund the loan commitment fee to the borrower.
- D) A loan commitment fee, including fees detailed in the Loan Brokerage Agreement, may be collected by a licensee even if a loan does not close if:
- i) Either such fee was provided for in the loan commitment accepted in writing by the borrower or ~~if~~ such ~~Such~~ fee was disclosed in the Loan Brokerage Agreement provided to a borrower pursuant to Section 1050.1010 of this Part and signed by the borrower, and a loan commitment was obtained by the licensee consistent with the Loan Brokerage Agreement; and ⁷
 - ii) The ~~A---commitment---was---obtained---by---the---licensee~~ consistent with such Loan Brokerage Agreement---if---the borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.
- 2) Rate-Lock Fee
- A) A Rate-Lock Fee Agreement shall be in writing and signed by both the licensee and prospective borrower.
 - B) The Rate-Lock Fee Agreement shall state all of the following:

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- i) The expiration date of the Rate-Lock Fee Agreement;
 - ii) The amount of the loan;
 - iii) The maximum interest rate of the loan;
 - iv) The term of the loan; and
 - v) The maximum discount (points) to be paid.
- C) The licensee shall be able to demonstrate to the Commissioner that:
- i) The licensee is able to perform under the terms of the Rate-Lock Fee Agreement; and
 - ii) Subject to verification, the information submitted by the borrower indicates that the loan will be approved in accordance with the Rate-Lock Fee Agreement; and
 - iii) The Rate-Lock Fee will be credited to the borrower at closing.

B) Such fee shall not exceed one percent of the loan amount.

D) The Rate-Lock Fee shall be deposited in escrow with the licensee in accordance with the requirements of Section 1050.440 of this Part, for the following distribution:

- i) The Rate-Lock Fee is credited to the borrower at closing; or
- ii) The Rate-Lock Fee must be refunded if the loan does not close in accordance with the Rate-Lock Fee Agreement except that the Rate-Lock Fee Agreement may be retained by the licensee upon the licensee's ability to demonstrate to the Commissioner any of the following reasons: the borrower withdraws the loan application; the borrower has made a material misrepresentation on the loan application; the borrower has failed to provide documentation necessary to the processing or closing of the loan; when the Rate-Lock Fee is to be retained, the licensee shall, ten (10) days prior to taking possession of the fee, send a written notice to the borrower stating the reason for retaining the fee.

E) A Rate-Lock fee may be collected by a licensee even if a loan does not close if:

- i) Such fee was disclosed in the Rate-Lock Fee Agreement provided to a borrower and signed by the borrower; and
- ii) A Rate-Lock was obtained by the licensee consistent with the Rate-Lock Fee Agreement and the borrower has withdrawn the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.

3)

Assumption Fee

A licensee may charge a borrower an Assumption Fee assumption fee

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for a Federal Housing Administration (FHA) or Department of Veterans Affairs (VA) loan assumption, which, by regulation, requires full credit approval prior to closing, subject to the following requirements:

A) The applicant must qualify for the extension of credit as required under:

- i) The terms and conditions of mortgages given on property in Illinois which are insured by the Federal Housing Administration and dated on or after December 15, 1989 requiring prior credit approval of the Secretary of Housing and Urban Development.
- ii) The terms and conditions of mortgages given on property located in Illinois which are guaranteed by the U.S. Department of Veterans Affairs (VA) dated on or after March 1, 1988 and requiring approval of VA or its authorized agent.

B) An Assumption Fee may be collected by a licensee even if a loan does not close if:

- i) Such fee was disclosed in an Assumption Fee Agreement provided to a borrower and signed by the borrower; and
- ii) An Assumption Fee Agreement was obtained by the licensee consistent with the Assumption Fee Agreement and the borrower withdraws the loan application; or the borrower has made a material misrepresentation on the loan application; or the borrower has failed to provide documentation necessary to the processing or closing of the loan.

B) The Assumption fee must be credited to the borrower at closing or must be refunded if the loan does not close in accordance with the Assumption Fee Agreement except that the Assumption fee may be retained by the licensee if:

- i) The borrower withdraws the loan application;
- ii) The borrower has made a material misrepresentation on the loan application; or
- iii) The borrower has failed to provide documentation necessary to the processing or closing of the loan.

b) Nothing in this Section 1050.1335 shall be interpreted to limit the right of a licensee to recover from a borrower any fee that the borrower has agreed to pay pursuant to a Loan Brokerage Agreement, a loan commitment or other written agreement entered into between the borrower and the licensee. This subsection shall not abridge Section 1050.1010(g) so as to permit an agreement or agreements in addition to the Rate-Lock Fee Agreement or the Loan Brokerage Agreement.

cb) For each violation of this Section, the Commissioner may fine a licensee up to \$500 in addition to all other actions authorized under the Act and this Part.

(Source: Amended at 21 Ill. Reg. _____, effective

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENT

_____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Sewer Discharge Criteria2) Code Citation: 35 Ill. Adm. Code 3073) Section Numbers:

	<u>Proposed Action:</u>
307.3501	Amended
307.3502	Amended
307.3506	Amended
307.3508	Amended
307.6500	Amended
307.6503	Amended
307.6505	New Section

4) Statutory Authority: 415 ILCS 5/13, 13.3 and 275) A. Complete Description of the Subjects and Issues Involved: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] requires the Board to adopt regulations which are "identical in substance" with federal regulations promulgated by the United States Environmental Protection Agency (USEPA) to implement the pretreatment requirements of Sections 307 and 402 of the Clean Water Act. The proposed amendments adopt the amendments to the pretreatment regulations adopted by the USEPA between July 1, 1996 and December 31, 1996.

The Board updates the incorporation by reference of 40 CFR 425.15, 425.25, 425.65 and 425.85 in 35 Ill. Adm. Code 307.3501, 307.3502, 307.3506 and 307.3508 to reflect the amendments by the USEPA on July 8, 1996 at 61 Fed. Reg. 35680. These amendments remove the upper pH limit by modifying the standard of "between 7 and 10" to "not less than 7" in the pretreatment standards for existing and new sources applicable to certain facilities in the leather tanning and finishing point source category that conduct unhauling operations and that discharge process wastewater to publicly owned treatment works (POTW).

On November 6, 1996 at 61 Fed. Reg. 57517, USEPA promulgated regulations that limit the discharge of pollutants into POTWs by existing and new facilities that formulate, package or repack pesticide products. These regulations cover facilities in the subcategories of the Pesticide Chemicals Point Source Category; Subcategory C: Pesticide Formulating, Packaging and Repackaging (PPFR) and Subcategory E: Agricultural Refilling Establishments. The Board incorporates the amendments to the pretreatment standards for pesticide formulating, packaging and repackaging facilities in Section 307.6503. The Board also creates a new Section 307.6505 to incorporate the pretreatment regulations adopted by USEPA for agricultural refilling establishments. USEPA establishes a zero discharge pretreatment standard with a pollution prevention alternative which allows a discharge to a POTW for subcategory C facilities. The pollution prevention alternative allows an option for facilities that

POLLUTION CONTROL BOARD

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agree to implement certain pollution prevention, recycle and reuse practices. Refilling establishments will be required to achieve zero discharge of wastewater pollutants.

The Board here proposes to update the incorporations by reference in Section 307.6500 of 40 CFR 455.10 and 40 CFR 455.11. The USEPA added additional definitions to this Section and modified the compliance date.

A more detailed description of the amendments can be found in the Board's opinion in Docket R97-23 of May 1, 1997 that is available from the Pollution Control Board at the address below. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5 of the Illinois Administrative Procedure Act (IAPA) shall not apply. Because this rulemaking is not subject to Section 5 of the IAPA, it is not subject to first notice or second notice review by the Joint Committee on Administrative Rules.

6) Will this proposed rule(s) replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes.
The existing text of Part 307 has numerous incorporations by reference throughout various Sections. The present amendments update the incorporations to include the changes in federal amendments that prompted this rulemaking.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking is mandated by Section 13.3 of the Environmental Protection Act (Act). The statewide policy objectives are set forth in Section 11 of the Act. This rule imposes mandates on units of local government to the extent that they pretreat industrial waste or operate a publicly owned treatment works required to have a pretreatment program.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Send written comments concerning R97-23 within 45 days after publication in the *Illinois Register* to:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601
312/814-6931

All comments should be clearly marked with the docket number R97-23.

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Questions may be directed to Diane O'Neill at the Pollution Control Board at (312)814-6062.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Leather tanning and finishing facilities that conduct unhauling operations and that discharge to a publicly owned treatment works. Pesticide formulating, packaging and repackaging facilities and agricultural refilling establishments discharging to sewage collection systems of publicly owned treatment works.

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and licensed professional engineer.

13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE C: WATER POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

PART 307

SEWER DISCHARGE CRITERIA

SUBPART A: GENERAL PROVISIONS

Section

307.101 Preamble (Renumbered)

307.102 General Requirements (Renumbered)

307.103 Mercury (Renumbered)

307.104 Cyanide (STORET number 00720) (Renumbered)

307.105 Pretreatment Requirements (Repealed)

307.1001 Preamble

307.1002 Definitions

307.1003 Test Procedures for Measurement

307.1005 Toxic Pollutants

SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section

307.1101 General and Specific Requirements

307.1102 Mercury

307.1103 Cyanide

SUBPART F: DAIRY PRODUCTS PROCESSING

Section

307.1501 Receiving Stations

307.1502 Fluid Products

307.1503 Cultured Products

307.1504 Butter

307.1505 Cottage Cheese and Cultured Cream Cheese

307.1506 Natural and Processed Cheese

307.1507 Fluid Mix for Ice Cream and other Frozen Desserts

307.1508 Ice Cream, Frozen Desserts, Novelties and Other Dairy Desserts

307.1509 Condensed Milk

307.1510 Dry Milk

307.1511 Condensed Whey

307.1512 Dry Whey

SUBPART G: GRAIN MILLS

Section

307.1601 Corn Wet Milling

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307.1602 Corn Dry Milling

307.1603 Normal Wheat Flour Milling

307.1604 Bulgur Wheat Flour Milling

307.1605 Normal Rice Milling

307.1606 Parboiled Rice Milling

307.1607 Animal Feed

307.1608 Hot Cereal

307.1609 Ready-to-eat Cereal

307.1610 Wheat Starch and Gluten

SUBPART H: CANNED AND PRESERVED FRUITS AND VEGETABLES

Section

307.1700 General Provisions

307.1701 Apple Juice

307.1702 Apple Products

307.1703 Citrus Products

307.1704 Frozen Potato Products

307.1705 Dehydrated Potato Products

307.1706 Canned and Preserved Fruits

307.1707 Canned and Preserved Vegetables

307.1708 Canned and Miscellaneous Specialties

SUBPART I: CANNED AND PRESERVED SEAFOOD

Section

307.1801 Farm-raised Catfish

307.1815 Fish Meal Processing Subcategory

SUBPART J: SUGAR PROCESSING

Section

307.1901 Beet Sugar Processing

307.1902 Crystalline Cane Sugar Refining

307.1903 Liquid Cane Sugar Refining

SUBPART K: TEXTILE MILLS

Section

307.2000 General Provisions

307.2001 Wool Scouring

307.2002 Wool Finishing

307.2003 Low Water Use Processing

307.2004 Woven Fabric Finishing

307.2005 Knit Fabric Finishing

307.2006 Carpet Finishing

307.2007 Stock and Yarn Finishing

307.2008 Nonwoven Manufacturing

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307.2009 Felted Fabric Processing

SUBPART L: CEMENT MANUFACTURING

Section

307.2101 Nonleaching

307.2102 Leaching

307.2103 Materials Storage Piles Runoff

SUBPART M: FEEDLOTS

Section

307.2201 General

307.2202 Ducks

SUBPART N: ELECTROPLATING

Section

307.2300 General Provisions

307.2301 Electroplating of Common Metals

307.2302 Electroplating of Precious Metals

307.2304 Anodizing

307.2305 Coatings

307.2306 Chemical Etching and Milling

307.2307 Electroless Plating

307.2308 Printed Circuit Boards

SUBPART O: ORGANIC CHEMICALS, PLASTICS AND SYNTHETIC FIBERS

Section

307.2400 General Provisions

307.2401 Rayon Fibers

307.2402 Other Fibers

307.2403 Thermoplastic Resins

307.2404 Thermosetting Resins

307.2405 Commodity Organic Chemicals

307.2406 Bulk Organic Chemicals

307.2407 Specialty Organic Chemicals

307.2410 Indirect Discharge Point Sources

307.2490 Non-complexed Metal-bearing and Cyanide-bearing Wastestreams

307.2491 Complexed Metal-bearing Wastestreams

SUBPART P: INORGANIC CHEMICALS MANUFACTURING

Section

307.2500 General Provisions

307.2501 Aluminum Chloride Production

307.2502 Aluminum Sulfate Production

POLLUTION CONTROL BOARD

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307.2503 Calcium Carbide Production

307.2504 Calcium Chloride Production

307.2505 Calcium Oxide Production

307.2506 Chlor-alkali Process (Chlorine and Sodium or Potassium Hydroxide Production)

307.2508 Hydrofluoric Acid Production

307.2509 Hydrogen Peroxide Production

307.2511 Potassium Metal Production

307.2512 Potassium Dichromate Production

307.2513 Potassium Sulfate Production

307.2514 Sodium Bicarbonate Production

307.2516 Sodium Chloride Production

307.2517 Sodium Dichromate and Sodium Sulfate Production

307.2520 Sodium Sulfite Production

307.2522 Titanium Dioxide Production

307.2523 Aluminum Fluoride Production

307.2524 Ammonium Chloride Production

307.2527 Borax Production

307.2528 Boric Acid Production

307.2529 Bromine Production

307.2530 Calcium Carbonate Production

307.2531 Calcium Hydroxide Production

307.2533 Carbon Monoxide and Byproduct Hydrogen Production

307.2534 Chrome Pigments Production

307.2535 Chromic Acid Production

307.2536 Copper Salts Production

307.2538 Ferric Chloride Production

307.2540 Fluorine Production

307.2541 Hydrogen Production

307.2542 Hydrogen Cyanide Production

307.2543 Iodine Production

307.2544 Lead Monoxide Production

307.2545 Lithium Carbonate Production

307.2547 Nickel Salts Production

307.2549 Oxygen and Nitrogen Production

307.2550 Potassium Chloride Production

307.2551 Potassium Iodide Production

307.2553 Silver Nitrate Production

307.2554 Sodium Bisulfite Production

307.2555 Sodium Fluoride Production

307.2560 Stannic Oxide Production

307.2563 Zinc Sulfate Production

307.2564 Cadmium Pigments and Salts Production

307.2565 Cobalt Salts Production

307.2566 Sodium Chlorate Production

307.2567 Zinc Chloride Production

SUBPART R: SOAP AND DETERGENTS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section	
307.2701	Soap Manufacturing by Batch Kettle
307.2702	Fatty Acid Manufacturing by Fat Splitting
307.2703	Soap Manufacturing by Fatty Acid Neutralization
307.2704	Glycerine Concentration
307.2705	Glycerine Distillation
307.2706	Manufacture of Soap Flakes and Powders
307.2707	Manufacture of Bar Soaps
307.2708	Manufacture of Liquid Soaps
307.2709	Oleum Sulfonation and Sulfation
307.2710	Air-Sulfur Trioxide Sulfation and Sulfonation
307.2711	Sulfur Trioxide Solvent and Vacuum Sulfonation
307.2712	Sulfamic Acid Sulfation
307.2713	Chlorosulfonic Acid Sulfation
307.2714	Neutralization of Sulfuric Acid Esters and Sulfonic Acids
307.2715	Manufacture of Spray Dried Detergents
307.2716	Manufacture of Liquid Detergents
307.2717	Manufacturing of Detergents by Dry Blending
307.2718	Manufacture of Drum Dried Detergents
307.2719	Manufacture of Detergent Bars and Cakes

SUBPART S: FERTILIZER MANUFACTURING

Section	
307.2801	Phosphate
307.2802	Ammonia
307.2803	Urea
307.2804	Ammonium Nitrate
307.2805	Nitric Acid
307.2806	Ammonium Sulfate Production
307.2807	Mixed and Blend Fertilizer Production

SUBPART T: PETROLEUM REFINING

Section	
307.2901	Topping
307.2902	Cracking
307.2903	Petrochemical
307.2904	Lube
307.2905	Integrated

SUBPART U: IRON AND STEEL MANUFACTURING

Section	
307.3000	General Provisions
307.3001	Cokemaking
307.3002	Sintering
307.3003	Ironmaking

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307.3004	Steelmaking
307.3005	Vacuum Degassing
307.3006	Continuous Casting
307.3007	Hot Forming
307.3008	Salt Bath Descaling
307.3009	Acid Pickling
307.3010	Cold Forming
307.3011	Alkaline Cleaning
307.3012	Hot Coating

SUBPART V: NONFERROUS METALS MANUFACTURING

Section	
307.3100	General Provisions
307.3101	Bauxite Refining
307.3102	Primary Aluminum Smelting
307.3103	Secondary Aluminum Smelting
307.3104	Primary Copper Smelting
307.3105	Primary Electrolytic Copper Refining
307.3106	Secondary Copper
307.3107	Primary Lead
307.3108	Primary Zinc
307.3109	Metallurgical Acid Plants
307.3110	Primary Tungsten
307.3111	Primary Columbium-Tantalum
307.3112	Secondary Silver
307.3113	Secondary Lead
307.3114	Primary Antimony
307.3115	Primary Beryllium
307.3116	Primary and Secondary Germanium and Gallium
307.3117	Secondary Indium
307.3118	Secondary Mercury
307.3119	Primary Molybdenum and Rhenium
307.3120	Secondary Molybdenum and Vanadium
307.3121	Primary Nickel and Cobalt
307.3122	Secondary Nickel
307.3123	Primary Precious Metals and Mercury
307.3124	Secondary Precious Metals
307.3125	Primary Rare Earth Metals
307.3126	Secondary Tantalum
307.3127	Secondary Tin
307.3128	Primary and Secondary Titanium
307.3129	Secondary Tungsten and Cobalt
307.3130	Secondary Uranium
307.3131	Primary Zirconium and Hafnium

SUBPART X: STEAM ELECTRIC POWER GENERATING

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NOTICE OF PROPOSED AMENDMENTS

Section 307.3301	Steam Electric Power Generating
SUBPART Y: FERROALLOY MANUFACTURING	
Section 307.3401	Open Electric Furnaces With Wet Air Pollution Control Devices
307.3402	Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices
307.3403	Slag Processing
307.3404	Covered Calcium Carbide Furnaces With Wet Air Pollution Control Devices
307.3405	Other Calcium Carbide Furnaces
307.3406	Electrolytic Manganese Products
307.3407	Electrolytic Chromium

SUBPART Z: LEATHER TANNING AND FINISHING

Section 307.3500	General Provisions
307.3501	Hair Pulp, Chrome Tan, Retan-Wet Finish
307.3502	Hair Save, Chrome Tan, Retan-Wet Finish
307.3503	Hair Save or Pulp, Non-Chrome Tan, Retan-Wet Finish
307.3504	Retan-Wet Finish-Sides
307.3505	No Beamhouse
307.3506	Through-the-Blue
307.3507	Shearing
307.3508	Pigskin
307.3509	Retan-Wet Finish-Splits
307.3590	Potassium Ferricyanide Titration Method

SUBPART BA: GLASS MANUFACTURING

Section 307.3601	Insulation Fiberglass
307.3602	Sheet Glass Manufacturing
307.3603	Rolled Glass Manufacturing
307.3604	Plate Glass Manufacturing
307.3605	Float Glass Manufacturing
307.3606	Automotive Glass Tempering
307.3607	Automotive Glass Laminating
307.3608	Glass Container Manufacturing
307.3610	Glass Tubing (Danner) Manufacturing
307.3611	Television Picture Tube Envelope Manufacturing
307.3612	Incandescent Lamp Envelope Manufacturing
307.3613	Hand Pressed and Blown Glass Manufacturing

SUBPART BB: ASBESTOS MANUFACTURING

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 307.3701	Asbestos-Cement Pipe
307.3702	Asbestos-Cement Sheet
307.3703	Asbestos Paper (Starch Binder)
307.3704	Asbestos Paper (Elastomeric Binder)
307.3705	Asbestos Millboard
307.3706	Asbestos Roofing
307.3707	Asbestos Floor Tile
307.3708	Coating or Finishing of Asbestos Textiles
307.3709	Solvent Recovery
307.3710	Vapor Absorption
307.3711	Wet Dust Collection

SUBPART BC: RUBBER MANUFACTURING

Section 307.3801	Tire and Inner Tube Plants
307.3802	Emulsion Crumb Rubber
307.3803	Solution Crumb Rubber
307.3804	Latex Rubber
307.3805	Small-Sized General Molded, Extruded and Fabricated Rubber Plants
307.3806	Medium-Sized General Molded, Extruded and Fabricated Rubber Plants
307.3807	Large-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3808	Wet Digestion Reclaimed Rubber
307.3809	Pan, Dry Digestion and Mechanical Reclaimed Rubber
307.3810	Latex-Dipped, Latex-Extruded and Latex-Molded Rubber
307.3811	Latex Foam

SUBPART BD: TIMBER PRODUCTS PROCESSING

Section 307.3900	General Provision
307.3901	Barking
307.3902	Veneer
307.3903	Plywood
307.3904	Dry Process Hardboard
307.3905	Wet Process Hardboard
307.3906	Wood Preserving-Water Borne or Nonpressure
307.3907	Wood Preserving-Steam
307.3908	Wood Preserving-Boulton
307.3909	Wet Storage
307.3910	Log Washing
307.3911	Sawmills and Planing Mills
307.3912	Finishing
307.3913	Particleboard Manufacturing
307.3914	Insulation Board
307.3915	Wood Furniture and Fixture Production Without Water Wash Spray Booth(s) or Without Laundry Facilities

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307.3916 Wood Furniture and Fixture Production with Water Wash Spray Booth(s)
or With Laundry Facilities

SUBPART BE: PULP, PAPER AND PAPERBOARD

Section

307.4000 General Provisions
307.4001 Unbleached Kraft
307.4002 Semi-Chemical
307.4004 Unbleached Kraft-Neutral Sulfite Semi-Chemical (Cross Recovery)
307.4005 Paperboard From Wastepaper
307.4006 Dissolving Kraft
307.4007 Market Bleached Kraft
307.4008 BCT Bleached Kraft
307.4009 Fine Bleached Kraft
307.4010 Papergrade Sulfite (Blow Pit Wash)
307.4011 Dissolving Sulfite Pulp
307.4012 Groundwood-Chemi-Mechanical
307.4013 Groundwood-Thermo-Mechanical
307.4014 Groundwood-CMN Papers
307.4015 Groundwood-Fine Papers
307.4016 Soda
307.4017 DeInk
307.4018 Nonintegrated-Fine Papers
307.4019 Nonintegrated-Tissue Papers
307.4020 Tissue From Wastepaper
307.4021 Papergrade Sulfite (Drum Wash)
307.4022 Unbleached Kraft and Semi-Chemical
307.4023 Wastepaper-Molded Products
307.4024 Nonintegrated-Lightweight Papers
307.4025 Nonintegrated-Filter and Nonwoven Papers
307.4026 Nonintegrated-Paperboard

SUBPART BF: BUILDERS' PAPER AND BOARD MILLS

Section

307.4101 Builders' Paper and Roofing Felt

SUBPART BG: MEAT PRODUCTS

Section

307.4201 Simple Slaughterhouse
307.4202 Complex Slaughterhouse
307.4203 Low-Processing Packinghouse
307.4204 High-Processing Packinghouse
307.4205 Small Processor
307.4206 Meat Cutter
307.4207 Sausage and Luncheon Meats Processor

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307.4208 Ham Processor
307.4209 Canned Meats Processor
307.4210 Renderer

SUBPART BH: METAL FINISHING

Section

307.4300 General Provisions
307.4301 Metal Finishing

SUBPART BN: PHARMACEUTICAL MANUFACTURING

Section

307.4900 General Provisions
307.4901 Fermentation Products
307.4902 Extraction Products
307.4903 Chemical Synthesis Products
307.4904 Mixing/Compounding and Formulation
307.4905 Research

SUBPART BR: PAVING AND ROOFING MATERIALS (TARS AND ASPHALT)

Section

307.5301 Asphalt Emulsion
307.5302 Asphalt Concrete
307.5303 Asphalt Roofing
307.5304 Linoleum and Printed Asphalt Felt

SUBPART BU: PAINT FORMULATING

Section

307.5601 Oil-Base Solvent Wash Paint

SUBPART BV: INK FORMULATING

Section

307.5701 Oil-Base Solvent Wash Ink

SUBPART CD: PESTICIDE CHEMICALS

Section

307.6500 General Provisions
307.6501 Organic Pesticide Chemicals Manufacturing
307.6502 Metallo-Organic Pesticides Chemicals Manufacturing
307.6503 Pesticide Chemicals Formulating and Packaging
307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments

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SUBPART CG: CARBON BLACK MANUFACTURING

Section
307.6801 Carbon Black Furnace Process
307.6802 Carbon Black Thermal Process
307.6803 Carbon Black Channel Process
307.6804 Carbon Black Lamp Process

SUBPART CJ: BATTERY MANUFACTURING

Section
307.7100 General Provisions
307.7101 Cadmium
307.7102 Calcium
307.7103 Lead
307.7104 Leclanche
307.7105 Lithium
307.7106 Magnesium
307.7107 Zinc

SUBPART CL: PLASTICS MOLDING AND FORMING

Section
307.7300 General Provision
307.7301 Contact Cooling and Heating Water
307.7302 Cleaning Water
307.7303 Finishing Water

SUBPART CM: METAL MOLDING AND CASTING

Section
307.7400 General Provisions
307.7401 Aluminum Casting
307.7402 Copper Casting
307.7403 Ferrous Casting
307.7404 Zinc Casting

SUBPART CN: COIL COATING

Section
307.7500 General Provisions
307.7501 Steel Basis Material
307.7502 Galvanized Basis Material
307.7503 Aluminum Basis Material
307.7504 Canmaking

SUBPART CO: PORCELAIN ENAMELING

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Section
307.7600 General Provisions
307.7601 Steel Basis Material
307.7602 Cast Iron Basis Material
307.7603 Aluminum Basis Material
307.7604 Copper Basis Material

SUBPART CP: ALUMINUM FORMING

Section
307.7700 General Provisions
307.7701 Rolling With Neat Oils
307.7702 Rolling With Emulsions
307.7703 Extrusion
307.7704 Forging
307.7705 Drawing With Neat Oils
307.7706 Drawing With Emulsions or Soaps

SUBPART CQ: COPPER FORMING

Section
307.7800 General Provisions
307.7801 Copper Forming
307.7802 Beryllium Copper Forming

SUBPART CR: ELECTRICAL AND ELECTRONIC COMPONENTS

Section
307.7901 Semiconductor
307.7902 Electronic Crystals
307.7903 Cathode Ray Tube
307.7904 Luminescent Materials

SUBPART CT: NONFERROUS METALS FORMING AND METAL POWDERS

Section
307.8100 General Provisions
307.8101 Lead-Tin-Bismuth Forming
307.8102 Magnesium Forming
307.8103 Nickel-Cobalt Forming
307.8104 Precious Metals Forming
307.8105 Refractory Metals Forming
307.8106 Titanium Forming
307.8107 Uranium Forming
307.8108 Zinc Forming
307.8109 Zirconium-Hafnium Forming
307.8110 Metal Powders

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APPENDIX A References to Previous Rules (Repealed)

AUTHORITY: Implementing Sections 13 and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].

SOURCE: Adopted in R70-5, at 1 PCB 426, March 31, 1971; amended in R71-14, at 4 PCB 3, March 7, 1972; amended in R74-3, at 19 PCB 182, October 30, 1975; amended in R74-15, 16, at 31 PCB 405, at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17, at 31 PCB 713, at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R88-9 at 14 Ill. Reg. 3100, effective February 20, 1990; amended in R89-12 at 14 Ill. Reg. 7620, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7377, effective April 27, 1992; amended in R93-2 at 17 Ill. Reg. 19483, effective October 29, 1993; amended in R94-10 at 19 Ill. Reg. 9142, effective June 23, 1995; amended in R95-22 at 20 Ill. Reg. 5549, effective April 1, 1996; amended in R97-23 at 21 Ill. Reg. _____, effective _____.

SUBPART 2: LEATHER TANNING AND FINISHING

Section 307.3501 Hair Pulp, Chrome Tan, Retan-Wet Finish

a) Applicability. This Section applies to discharges resulting from any tannery which, either exclusively or in addition to other unhairing and tanning operations, processes raw or cured cattle or cattle-like hides into finished leather by chemically dissolving the hide hair, chrome tanning and retan-wet finishing.

b) Specialized definitions. None.

c) Existing sources:

1) The Board incorporates by reference 40 CFR 425.15 (1996) ~~†1987†~~, as amended at 61 53 Fed. Reg. 35680, July 8, 1996 ~~91817-March-217~~ 1993. This incorporation includes no later amendments or editions.

2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

d) New sources:

1) The Board incorporates by reference 40 CFR 425.16 (1987). This incorporation includes no later amendments or editions.

2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such

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standards.

3) "New source" means any building, structure, facility or installation the construction of which commenced after July 2, 1979.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 307.3502 Hair Save, Chrome Tan, Retan-Wet Finish

a) Applicability. This Section applies to discharges resulting from any tannery which processes raw or cured cattle or cattle-like hides into finished leather by hair save unhairing, chrome tanning and retan-wet finishing.

b) Specialized definitions. None.

c) Existing sources:

1) The Board incorporates by reference 40 CFR 425.25 (1996), as amended at 61 Fed. Reg. 35680, July 8, 1996 ~~†1986†~~. This incorporation includes no later amendments or editions.

2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

d) New sources:

1) The Board incorporates by reference 40 CFR 425.26 (1986). This incorporation includes no later amendments or editions.

2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

3) "New source" means any building, structure, facility or installation the construction of which commenced after July 2, 1979.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 307.3506 Through-the-Blue

a) Applicability. This Section applies to discharges resulting from any tannery which processes raw or cured cattle or cattle-like hides through the blue tanned state by hair pulp unhairing and chrome tanning; no retan-wet finishing is performed.

b) Specialized definitions. None.

c) Existing sources:

1) The Board incorporates by reference 40 CFR 425.65 (1996), as amended at 61 Fed. Reg. 35680, July 8, 1996 ~~†1986†~~. This incorporation includes no later amendments or editions.

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- 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

d) New sources:

- 1) The Board incorporates by reference 40 CFR 425.66 (1986). This incorporation includes no later amendments or editions.
- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.
- 3) "New source" means any building, structure, facility or installation the construction of which commenced after July 2, 1979.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 307.3508 Pigskin

- a) Applicability. This Section applies to discharges resulting from any tannery which processes raw or cured pigskins into finished leather by chemically dissolving or pulping the hair and tanning with chrome, then retan-wet finishing.

b) Specialized definitions. None.

c) Existing sources:

- 1) The Board incorporates by reference 40 CFR 425.85 (1986), as amended at 61 Fed. Reg. 35680, July 8, 1996 (1996). This incorporation includes no later amendments or editions.

- 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

d) New sources:

- 1) The Board incorporates by reference 40 CFR 425.86 (1986). This incorporation includes no later amendments or editions.
- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.
- 3) "New source" means any building, structure, facility or installation the construction of which commenced after July 2, 1979.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

SUBPART CD: PESTICIDE CHEMICALS

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Section 307.6500 General Provisions

- a) General definitions. The Board incorporates by reference 40 CFR 455.10 (1996), as amended at 61 Fed. Reg. 57517, November 6, 1996 (1996). This incorporation includes no later amendments or editions.
- b) Compliance date. The Board incorporates by reference 40 CFR 455.11 (1996), as amended at 61 Fed. Reg. 57517, November 6, 1996 (1996). This incorporation includes no later amendments or editions.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 307.6503 Pesticide Chemicals Formulating and Packaging

a) Applicability.

- 1) The Board incorporates by reference 40 CFR 455.40 (1996), as amended at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

- 2) This Section applies to discharges resulting from all pesticide formulating and packaging operations, as defined in the materials incorporated in subsection (a)(1) of this Section.

- b) Specialized definitions. The Board incorporates by reference 40 CFR 455.41, as added at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

- c) Existing sources: ~~These sources shall comply with the general and specific pretreatment requirements of 407-Subpart-B.~~

- 1) The Board incorporates by reference 40 CFR 445.46, as added at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

- 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

d) New sources: ~~All sources are regulated as existing sources.~~

- 1) The Board incorporates by reference 40 CFR 455.46, as added at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

- 3) New source means any building, structure, facility or installation the construction of which commenced after April 14, 1994.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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Section 307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments**a) Applicability.**

1) The Board incorporates by reference 40 CFR 455.60, as added at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

2) This Section applies to discharges resulting from all pesticide formulating and packaging operations, as defined in the materials incorporated in subsection (a)(1) of this Section.

b) Specialized definitions. The Board incorporates by reference 40 CFR 455.61, as added at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

c) Existing sources:

1) The Board incorporates by reference 40 CFR 455.66, as added at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

d) New sources:

1) The Board incorporates by reference 40 CFR 455.66, as added at 61 Fed. Reg. 57517, November 6, 1996. This incorporation includes no later amendments or additions.

2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) shall cause, threaten or allow the discharge of any contaminant to a POTW in violation of such standards.

3) New source means any building, structure, facility or installation the construction of which commenced after April 14, 1994.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Illinois Professional Land Surveyor Act of 1989

2) Code Citation: 68 Ill. Adm. Code 1270

3) Section Numbers: Proposed Action:

1270.5 Amendment

1270.10 Amendment

1270.30 Amendment

1270.45 Amendment

4) Statutory Authority: The Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330].

5) A Complete Description of the Subjects and Issues Involved: Public Act 89-594, Section 350, effective August 2, 1996, added a requirement that an applicant for a land surveyor license in Illinois who graduated from a land surveyor program outside the United States or its territories and whose first language is not English must submit certification of passage of the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE) as defined by rule before taking the licensure examination. This rulemaking provides procedures for submitting such certification.

Section 10 of the Act authorizes the Department of Professional Regulation to require a foreign-educated applicant, at the applicant's expense, to have his/her education in a foreign country evaluated by a nationally recognized educational body. These proposed rules designate the American Association of Collegiate Registrars and Admissions Officers, Office of International Education, as a nationally recognized educational body qualified to perform the evaluations.

Section 25 of the Act requires persons who desire to practice land surveying in Illinois in the form of a partnership, limited liability company or corporation to register with the Department. This rulemaking sets forth the procedures and information required to register a professional design firm with the Department. The registration requirements also affect any sole proprietorship that operates under an assumed name.

6) Will these proposed amendments replace emergency rules currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

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10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813
Fax #: 217/782-7645

All written comments received within 45 days after this issue of the Illinois Register will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of land surveyors.

B) Reporting, bookkeeping or other procedures required for compliance: Applicants who received their education in a foreign country will be required to have their education evaluated, at their expense, by the American Association of Collegiate Registrars and Admissions Officers. Each design firm corporation, limited liability company or partnership is responsible for notifying the Department of Professional Regulation within 30 days after any changes in membership or licensure status of members of the firm.

C) Types of professional skills necessary for compliance: Land surveying skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS
PART 1270

ILLINOIS PROFESSIONAL LAND SURVEYOR ACT OF 1989

Section	Application for Licensure as a Professional Land Surveyor-in-Training by Examination
1270.5	
1270.10	Application for Licensure as a Professional Land Surveyor by Examination
1270.13	Experience
1270.15	Definition of Related Science
1270.20	Examinations
1270.30	Endorsement
1270.35	Inactive Status
1270.40	Restoration
1270.45	Professional Design Firm Corporations-and-Partnerships
1270.50	Renewals
1270.55	Land Surveyor Complaint Committee
1270.60	Granting Variances
APPENDIX A	Rules for the Perpetuation of Monuments Under the Land Survey Monuments Act

AUTHORITY: Implementing the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Land Surveyors Act, effective April 27, 1967; 2 Ill. Reg. No. 50, page 64, effective December 11, 1978; codified and amended at 5 Ill. Reg. 11039; 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; emergency amendment at 8 Ill. Reg. 5365, effective April 12, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15485, effective August 10, 1984; amended at 11 Ill. Reg. 1615, effective January 6, 1987; amended at 11 Ill. Reg. 4763, effective March 10, 1987; recodified from Chapter I, 68 Ill. Adm. Code 270 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1270 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2950; amended at 15 Ill. Reg. 5258, effective April 2, 1991; amended at 16 Ill. Reg. 15548, effective September 28, 1992; amended at 18 Ill. Reg. 5900, effective April 5, 1994; amended at 18 Ill. Reg. 14730, effective September 19, 1994; amended at 19 Ill. Reg. 16071, effective November 17, 1995; amended at 20 Ill. Reg. 5852, effective April 3, 1996; amended at 21 Ill. Reg. _____, effective _____.

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Section 1270.5 Application for Licensure as a Professional Land Surveyor-in-Training by Examination

a) An applicant for licensure as a Professional Land Surveyor-in-Training under the Illinois Professional Land Surveyor Act of 1989 (the Act) [225 ILCS 330] shall file an application, on forms supplied by the Department of Professional Regulation (the Department), by November 15 for the spring examination and May 15 for the fall examination. The application shall include the following:

1) Certification of education completed by the educational institution attended and/or experience verified by the employer of one of the following:

- A) A baccalaureate degree in land surveying from an accredited college or university;
- B) A baccalaureate degree from an accredited college or university in a related science, as defined in Section 1270.15, including 24 semester hours of land surveying courses;
- C) A baccalaureate degree in a related science, as defined in Section 1270.15, from an accredited college or university and 2 years of approved land surveying experience as set forth in Section 1270.13. Maximum allowable experience under Section 1270.13(d)(2) shall be 8 months;
- D) An associate degree in land surveying technology from an accredited junior college and 3 years of approved land surveying experience as set forth in Section 1270.13. Maximum allowable experience under Section 1270.13(d)(2) shall be 12 months;
- E) An associate degree in engineering technology from an accredited junior college and 4 years of approved land surveying experience as set forth in Section 1270.13. Maximum allowable experience under Section 1270.13(d)(2) shall be 16 months;
- F) An associate degree in related science from an accredited junior college and 6 years of approved land surveying experience as set forth in Section 1270.13. Maximum allowable experience under Section 1270.13(d)(2) shall be 24 months; or
- G) A high school diploma or GED and 8 years of approved land surveying experience as set forth in Section 1270.13. Maximum allowable experience under Section 1270.13(d)(2) shall be 32 months.

ii) An applicant shall have acquired the experience required by this Section prior to applying to the Department;

iii) Applicants who received their education in a foreign country shall have the education evaluated, at their expense, by the American Association of Collegiate

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Registrars and Admissions Officers, Office of International Education. Applicants shall obtain the forms from the National Council of Examiners for Engineers (NCEES), P.O. Box 1646, Clemson, South Carolina 29633-1686. The Board will review all transcripts and the evaluation submitted to the Department to determine if the education meets the requirements set forth in this Section and Section 1270.15.

2) A complete work history indicating all employment since fulfillment of the educational requirements set forth in subsection (a)(1) above.

3) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

4) The required fee specified in Section 21 of the Act.

5) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score of 50, for applicants who apply after January 1, 1997, who graduated from a land surveyor program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the land surveyor program from which the applicant graduated was taught in English.

b) Beginning January 1, 1998, an applicant shall have a baccalaureate degree in land surveying from an accredited college or university, or a baccalaureate degree in a related science including at least 24 semester hours of land surveying courses from a Board approved curriculum of an accredited institution (Section 13 of the Act).

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1270.10 Application for Licensure as a Professional Land Surveyor by Examination

An applicant for licensure as a Professional Land Surveyor shall file an application, on forms supplied by the Department by November 15 for the spring examination and May 15 for the fall examination. The application shall include

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the following:

- a) Educational and experience requirements.
 - 1) Applicants filing after January 1, 1986:
 - A) Shall have met one of the educational and experience requirements set forth in Section 1270.5;
 - B) Shall have been issued a license as a Professional Land Surveyor-in-Training; and
 - C) Shall have completed at least 4 years of experience in land surveying approved in accordance with Section 1270.13(a), (b), (c) and (d)(1). Such experience shall be subsequent to passage of the Fundamentals of Land Surveying examination.
 - 2) Applicants who have obtained 4 years of experience or more in the practice of land surveying prior to ~~PRIOR-TO~~ January 1, 1982:
 - A) Shall have met one of the educational and experience requirements set forth in Section 1270.5(a)(1); and
 - B) Shall have completed at least 4 years of approved experience in land surveying as set forth in Section 1270.13(a), (b), (c) and (d)(1). Applicants shall be permitted to continue acquiring experience without being issued a Professional Land Surveyor-in-Training license.
- i) An applicant shall have acquired the experience required by this Section prior to applying to the Department;
 - ii) Applicants who received their education in a foreign country shall have the education evaluated, at their expense, by the American Association of Collegiate Registrars and Admissions Officers, Office of International Education. Applicants shall obtain the forms from the National Council of Examiners for Engineers (NCEES), P.O. Box 1646, Clemson, South Carolina 29633-1686. The Board will review all transcripts and the evaluation submitted to the Department to determine if the education meets the requirements set forth in this Section and Section 1270.15.
- b) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, if applicable, stating:
 - 1) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
 - 2) A description of the examination in that jurisdiction; and
 - 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- c) Verification of experience form, completed by the employer, indicating the required 4 years of approved experience in land surveying as set forth in Section 1270.13(a), (b), (c) and (d)(1).

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- d) A complete work history indicating all employment since fulfillment of the educational requirements set forth in Section 1270.5.
- e) The required fee specified in Section 21 of the Act.
- f) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score of 50, for applicants who apply after January 1, 1997, who graduated from a land surveyor program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the land surveyor program from which the applicant graduated was taught in English.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1270.30 Endorsement

- a) An applicant who is licensed or registered to practice Land Surveying as a Professional Land Surveyor or a Professional Land Surveyor-in-Training under the laws of another state or territory of the United States who desires to become licensed by endorsement shall file an application with the Department together with:
 - 1) Proof that the applicant has met the requirements substantially equivalent to those in force in this state for a Licensed Professional Land Surveyor at the time of original or subsequent licensure by examination in the other state or territory, including certification of education, and verification of experience as appropriate;
 - 2) A certification by the state or territory of original licensure and certification from the state or territory of predominant active practice, including the following:
 - A) The time during which the applicant was licensed in that state or territory, including the date of the original issuance of the license;
 - B) The basis of licensure and a description of all examinations by which the applicant was licensed in that state or territory and the date of passage of any such examinations; and
 - C) Whether the records of the licensing authority contain any record of any disciplinary action taken or pending against the applicant;
 - 3) A complete work history indicating all employment since fulfillment ~~fulfillment~~ of educational requirements;
 - 4) The required fee specified in Section 21 of the Act;
 - 5) Applicants who received their education in a foreign country shall have the education evaluated, at their expense, by the American Association of Collegiate Registrars and Admissions Officers, Office of International Education. Applicants shall

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obtain the forms from the National Council of Examiners for Engineers (NCEES), P.O. Box 1646, Clemson, South Carolina 29633-1686. The Board will review all transcripts and the evaluation submitted to the Department to determine if the education meets the requirements set forth in this Section and Section 1270.15:

- 6) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a score of 550 and the Test of Spoken English (TSE) with a score of 50, for applicants who apply after January 1, 1997, who graduated from a land surveyor program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the land surveyor program from which the applicant graduated was taught in English.

- b) An applicant for licensure under this Section shall be required to appear before the Land Surveyor Examining Board (the "Board") for an oral interview if the Department has questions about the applicant's application, because of discrepancies or conflicts in information, information needing further clarification and/or missing information.
- c) Applicants for licensure on the basis of endorsement shall successfully complete the Illinois Jurisdictional Examination as set forth in Section 1270.20.
- d) The Department shall examine each endorsement application to determine whether the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in force in the State of Illinois. The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reason for the denial of such application.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1270.45 Professional Design Firm Corporations-and-Partnerships

- a) Persons who desire to practice land surveying in the State of Illinois in the form of a partnership, limited liability company, ~~pursuant to Section--26-of-the-Act--or-a~~ corporation (if the form is a corporation and such corporation was not formed under the Professional Service Corporation Act [805 ILCS 10], or sole proprietorship (if the sole proprietorship is conducting or transacting business under an assumed name in accordance with the Assumed Business Name Act [805 ILCS 405]) ~~(111-Rev--Stat--1909--ch--327--par--415-17--et--seq--)~~ pursuant to Section 25 of the Act, shall file an application with the Department on forms provided by the Department, together with the following:

- 1) For Corporations:†
- A) The name of the corporation and its registered address, the names of all members of the board of directors, and the name

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of the state and license number for each director who is licensed as a land surveyor. To qualify under Section 25 of the Act, a majority of the officers and board of directors of the corporation shall be Illinois licensed land surveyors. ~~†--and~~

- B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. The purpose clause of the Articles of Incorporation shall designate that the purpose of the corporation is to provide land surveying services. If it is a foreign corporation, a copy of the certificate of authority to transact business in the State of Illinois issued by the Secretary of State is also required. A corporation shall remain active and in good standing with the Secretary of State in order to maintain a professional design firm registration.

- C) A certified copy of the resolution of the board of directors of the corporation designating a member of the board who is an Illinois licensed land surveyor as the managing agent in charge of the land surveying activities in Illinois. ~~A majority--of--the--officers--of--the--corporation--shall--be Illinois-licensed-land-surveyors.~~

2) For Partnerships.

- A) An application containing the name of the partnership and its business address and the names of all partners and their Illinois Land Surveyor license numbers. All partners shall be Illinois licensed land surveyors.

- B) A certified copy of the resolution adopted by the general partners designating the general partner(s) who is an Illinois licensed land surveyor as the managing agent(s) in charge of the land surveying activities in this State. The Illinois license number of the land surveyor(s) designated as the managing agent(s) shall also be included in the resolution.

3) For Limited Liability Companies.

- A) An application containing the name of the limited liability company, the business address and the members of the company, the name of the state in which each is licensed as a land surveyor and the license number of each member.

- B) A certified copy of the articles of organization or operating agreement designating a member of the company who is an Illinois licensed land surveyor as the managing agent in charge of the land surveying activities in this State.

- 4) For Sole Proprietorships. An application containing the name of the sole proprietorship and its business address and the name and license number of the land surveyor who owns and operates the business.

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- 5)b) A list of all office locations at which the corporation, limited liability company, or partnership or sole proprietorship provides land surveying services. Any professional services corporation, sole proprietorship, or professional land surveying firm offering land surveying services must have a resident land surveyor overseeing the land surveying practices in each location in which land surveying services are provided. (Section 25 of the Act)
- 6) A list of all assumed names used by the corporation, limited liability company, partnership or sole proprietorship.
- 7) The fee required in Section 21 of the Act.

b)e) Upon receipt of the above documents and review of the application, the Department shall issue a license authorizing the corporation, limited liability company, or partnership or sole proprietorship to engage in the practice of land surveying or notify the applicant in writing of the reason for the denial of the such application.

c)d) Each corporation, limited liability company or partnership shall be responsible for notifying the Department in writing within 30 days of any changes in:

- 1) The membership of the board of directors, members of the limited liability company or the general partners; or
- 2) The licensure status of any of the general partners, members of the limited liability company or any of the licensed land surveyor members of the board of directors.

e) The fee specified in Section 21 of the Act.

d) Sole Proprietorships. Any sole proprietorship owned and operated by a land surveyor who has an active Illinois license is exempt from the registration requirement of a professional design firm. However, if the sole proprietorship operates under an assumed name, the sole proprietorship shall file an application with the Department indicating all assumed names utilized. A sole proprietorship shall notify the Department of any assumed name changes.

e) In addition to the seal requirements in Section 15 of the Act, all documents or technical submissions prepared by the design firm shall contain the design firm registration number issued by the Department.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: The Professional Engineering Practice Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1380
- 3) Section Numbers: Proposed Action:
1380.290 Amendment
- 4) Statutory Authority: The Professional Engineering Practice Act of 1989 [225 ILCS 325]
- 5) A Complete Description of the Subjects and Issues Involved: Section 23 of the Act requires persons who desire to practice professional engineering in Illinois in the form of a partnership, limited liability company or corporation to register with the Department of Professional Regulation. This rulemaking sets forth the procedures and information required to register a professional design firm with the Department. The registration requirements also affect any sole proprietorship that operates under an assumed name.
- 6) Will these Proposed Amendments replace an emergency Rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these Proposed Amendments contain incorporations by reference? No
- 9) Are there any other Proposed Amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax #: 217/782-7645

All written comments received within 45 days of this issue of the Illinois Register will be considered.
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Professional engineering firms

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B) Reporting, bookkeeping or other procedures required for compliance: Each design firm corporation, limited liability company or partnership is responsible for notifying the Department of Professional Regulation within 30 days after any changes in membership or licensure status of members of the firm.

C) Types of professional skills necessary for compliance: Professional engineering skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment(s) begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1380

THE PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

Section	
1380.210	Approved Engineering Program
1380.220	Definition of Degree in Basic Engineering or Related Science
1380.230	Approved Experience
1380.240	Application for Enrollment as an Engineer Intern by Examination
1380.250	Application for Licensure as a Professional Engineer by Examination
1380.260	Examination
1380.270	Restoration
1380.280	Endorsement
1380.285	Inactive Status
1380.290	Professional Design Firm Corporations-and-Partnerships
1380.300	Standards of Professional Conduct
1380.305	Professional Engineer Complaint Committee
1380.310	Renewals
1380.320	Granting Variances
APPENDIX A	Significant Dates for the Administration of Section 19 of the Act - Endorsement

AUTHORITY: Implementing the Professional Engineering Practice Act of 1989 [225 ILCS 325] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Professional Engineering Act, effective March 10, 1976; codified at 5 Ill. Reg. 11055; codified and amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; Part repealed at 9 Ill. Reg. 10038, effective June 18, 1985; new Part adopted at 9 Ill. Reg. 10040, effective June 18, 1985; amended at 10 Ill. Reg. 19507, effective November 5, 1986; amended at 11 Ill. Reg. 8767, effective April 20, 1987; recodified from Chapter I, 68 Ill. Adm. Code 380 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1380 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2942; amended at 14 Ill. Reg. 247, effective December 28, 1990; amended at 15 Ill. Reg. 17729, effective November 26, 1991; amended at 16 Ill. Reg. 15553, effective September 28, 1992; amended at 18 Ill. Reg. 14737, effective September 19, 1994; amended at 19 Ill. Reg. 16076, effective November 17, 1995; amended at 20 Ill. Reg. 6477, effective April 25, 1996; amended at 21 Ill. Reg. _____, effective _____.

Section 1380.290 Professional Design Firm Corporations-and-Partnerships

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a) Persons who desire to practice professional engineering in this State in the form of a partnership, limited liability company, or corporation (if the form is a corporation and such corporation was not formed under the Professional Service Corporation Act [805 ILCS 10] ~~{iii}---Rev---Stat---1989,---ch---327---par---415-17---et---seq-7}~~ or sole proprietorship (if the sole proprietorship is conducting or transacting business under an assumed name in accordance with the Assumed Business Name Act [805 ILCS 405]) shall, in accordance with Section 23 of the Act, file an application with the Department, on forms provided by the Department, together with the following:

1) For Corporations.

A) The name of the corporation and its registered address, the names of all members of the board of directors, and the name of the state and license number for each director who is licensed as a professional engineer. ~~7-and~~

B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the Corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. The purpose clause of the Articles of Incorporation shall designate that the purpose of the corporation is to provide engineering services. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the Secretary of State is also required. Each corporation shall remain active and in good standing with the Secretary of State in order to maintain a professional design firm registration.

C) A certified copy of the resolution of the board of directors of the corporation designating a regular full-time employee of the corporation who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in Illinois.

2) For Partnerships.

A) An application containing the name of the partnership and its business address and the names of all general partners, with the name of the state in which each is licensed as a professional engineer and the license number of each general partner.

B) ~~3) A certified copy of the resolution of the board of directors of the corporation or of the general partners, as the case may be, designating a regular full-time employee of the member of the board or a member of the partnership who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in this State and vesting in such managing agent full authority to make all final decisions involving engineering work within Illinois.~~

3) For Limited Liability Companies.

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A) An application containing the name of the limited liability company, the business address and the members of the company, the name of the state in which each is licensed as a professional engineer and the license number of each member.

B) A certified copy of the articles of organization or operating agreement designating a regular full-time employee of the company who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in this State.

4) For Sole Proprietorships. An application containing the name of the sole proprietorship and its business address and the name and license number of the professional engineer who owns and operates the business.

5) ~~4) A list of all office locations at which the corporation, limited liability company, or partnership or sole proprietorship provides engineering services.~~

6) A list of all assumed names used by the corporation, limited liability company, partnership or sole proprietorship.

7) ~~5) The fee required in Section 20 of the Act.~~

b) Upon receipt of the above documents and review of the application, the Department shall issue a license authorizing the corporation, limited liability company, or partnership or sole proprietorship to engage in the practice of professional engineering or notify the applicant of the reason for the denial of the ~~such~~ application.

c) Each corporation, limited liability company or partnership shall be responsible for notifying the Department within 30 days of any changes in:

1) The membership of the board of directors, member of the limited liability company or the general partners; and

2) The licensure status of the general partners, members of the limited liability company or any of the licensed professional engineer members of the board of directors

d) Each corporation, limited liability company or partnership shall be responsible for notifying the Department, in writing, by certified mail, within 10 business days of the termination or change in status of the managing agent. Thereafter, the corporation, limited liability company or partnership, if it has so informed the Department, has 30 days to notify the Department of the name and license number of the professional engineer licensed in Illinois who is the newly designated managing agent ~~as provided in subsection (c) above.~~

e) Any failure to notify the Department as required in subsections (c) and (d) above or any failure of the corporation, limited liability company or partnership to continue to comply with the requirements of Section 23 of the Act will subject the corporation, limited liability company or partnership to the loss of its license to practice professional engineering in Illinois.

f) Sole Proprietorships. A sole proprietorship who is conducting or

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transacting business under the real name of the professional engineer who has an active Illinois license will not be required to file an application and comply with the requirements set forth in this Section. However, if the sole proprietorship operates under an assumed name, the sole proprietor shall file an application with the Department indicating all assumed names utilized. A sole proprietorship shall notify the Department of any assumed name changes.

- g) In addition to the seal requirements in Section 12 of the Act, all documents or technical submissions prepared by the design firm shall contain the design firm registration number issued by the Department.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Developmental Disabilities Services
- 2) Code Citation: 89 Ill. Adm. Code 144
- 3) Section Numbers: Proposed Action:

144.275	Amendment
144.300	Amendment
144.325	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments concerning long term care facilities for persons with developmental disabilities (ICF/MR) reassign the \$.10 emergency dental services add-on which has been in effect since December 1, 1995. This add-on has been necessary because the State's budget plan for fiscal year 1996 called for cost containment measures in some areas of the Department's medical assistance program and coverage for some optional Medicaid funded care, including dental services, was eliminated for recipients age 21 or over. However, coverage was restored for emergency dental services for adults in January 1997. Therefore, the Department of Mental Health and Developmental Disabilities, which is responsible for the ICF/MR program, is reassigning the \$.10 emergency dental add-on to the per diem for prophylaxis treatment and periodontal services, increasing the amount from \$.30 to \$.40.

Additional proposed changes are being made to update these rules by changing Health Service Area references to the currently used term, geographic area.

These proposed amendments will not result in any budgetary changes.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data,

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views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62762
217/524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these amendments at the Department of Public Aid's local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit Corporations affected: Long term care facilities (ICF/MR) for persons with developmental disabilities

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: January 1997

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The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 144
DEVELOPMENTAL DISABILITIES SERVICES

Section	
144.1	Incorporation By Reference
144.5	Determination of Program (Active Treatment) Costs
144.25	ICF/MR Service Criteria
144.50	Inspection of Care and Rate Setting Appeal Process
144.75	Comprehensive Functional Assessments and Reassessments (Repealed)
144.100	Exceptional Care Needs of Clients with Developmental Disabilities
144.105	Individual Program Plan (IPP) (Repealed)
144.125	Specialized Care - Behavior Development Programs
144.150	Specialized Care - Health and Sensory Disabilities
144.175	Functional Needs
144.200	Service Needs - Medical Care (Repealed)
144.205	Service Needs - Medical and Therapy Services (Repealed)
144.225	Individual Rights (Repealed)
144.230	Reconciliation of Resident Funds
144.250	Discharge Planning/Maximum Growth Potential Plan (Repealed)
144.275	Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities
144.300	Reimbursement for Program (Active Treatment) Costs in Small Scale Residential Facilities
144.325	Capital Rate Calculation
TABLE A	Overview of Staff Intensity Scale of Maladaptive Behaviors
TABLE B	Staff Intensity Scale
TABLE C	IPP Outcomes (Repealed)
TABLE D	Guidelines for Determining Levels of Functioning
TABLE E	Standardized Adaptive Functional Assessment

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 14 Ill. Reg. 4166, effective March 9, 1990; Section 144.275 recodified from 89 Ill. Adm. Code 146.225 at 14 Ill. Reg. 7651; amended at 14 Ill. Reg. 17988, effective October 29, 1990; amended at 15 Ill. Reg. 14084, effective September 24, 1991; emergency amendment at 15 Ill. Reg. 16148, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3497, effective February 28, 1992; amended at 16 Ill. Reg. 5898, effective March 20, 1992; amended at 17 Ill. Reg. 8478, effective June 1, 1993; amended at 17 Ill. Reg. 11480, effective July 16, 1993; emergency amendment at 17 Ill. Reg. 15126, effective September 2, 1993, for a maximum of 150 days; emergency

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amendment suspended effective October 12, 1993; emergency amendment repealed at 17 Ill. Reg. 22582, effective December 20, 1993; emergency amendment at 18 Ill. Reg. 11314, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16619, effective October 27, 1994; amended at 19 Ill. Reg. 2890, effective February 22, 1995; amended at 19 Ill. Reg. 7906, effective June 5, 1995; amended at 20 Ill. Reg. 6916, effective May 6, 1996; emergency amendment at 20 Ill. Reg. 7426, effective May 24, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9072, effective June 28, 1996; amended at 20 Ill. Reg. 11326, effective August 1, 1996; amended at 20 Ill. Reg. 12465, effective August 30, 1996; amended at 21 Ill. Reg. _____, effective _____.

Section 144.275 Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities

Residential facilities, including distinct parts of facilities, for clients with developmental disabilities (ICF/MR certification with licensure for ICF/DD, ICF/DD-16, SLC, and ICF/MR-SNF/PED license), excluding state operated facilities for individuals with developmental disabilities, will be reimbursed for an active treatment program for each client. Facility program reimbursement levels will be derived by the Department of Mental Health and Developmental Disabilities from the following four determinants which in combination will result in a total facility program per diem amount. These four determinants will be determined according to information provided in the most recent Inspection of Care (IOC) conducted by Department of Public Health survey staff. This IOC information must be validated by the survey staff prior to utilization for payment purposes. The new reimbursement level will be effective on the first day of the quarter following a facility's IOC. Where dollar, wage, or salary amounts are used, these shall be inflated to the fiscal year for which reimbursement will be made.

- a) Minimum Staffing
- 1) Direct Services - Facilities must be in compliance with the Health Care Financing Administration's (HCFA) (42 CFR 483.430) minimum average daily staffing standards relative to client population according to each individual's overall level of functioning:

Overall Level of Functioning	FTE* Staff : Client Ratio
Mild	1:5
Moderate	1:2.5
Severe or Profound	1:2
*FTE = Full Time Equivalent	

- A) Determination of levels of functioning of clients with mental retardation and related conditions, in accordance with the definition of the American Association of Mental Retardation (Mental Retardation refers to significantly subaverage general intellectual functioning existing

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concurrently with deficits in adaptive behavior and manifested during the developmental period), will include both:

- i) an assessment of intellectual functioning as measured by a standardized, full scale, individual intelligence test such as the Stanford Binet and WAIS-R. Such an assessment must be administered by a psychologist who is registered in Illinois under the Clinical Psychologist Licensing Act (Illinois Department of Professional Regulation); and
 - ii) an assessment of adaptive behaviors using a nationally standardized, Department approved assessment instrument, such as the Scales of Independent Behavior (SIB) or the Inventory For Client and Agency Planning (ICAP). Such an assessment instrument will be utilized by at least one Qualified Mental Retardation Professional (QMRP) to evaluate each client's functional skills and adaptive behaviors.
- B) The final determination of each client's overall level of functioning employs both the assessment of intellectual functioning and the assessment of adaptive behaviors, and will be made according to the criteria set forth in Section 144. Table D and Section 144. Table E.
- C) The amount for Direct Services for these staffing ratios shall be obtained by:
- i) determining the number of clients within each overall level of functioning; dividing each number by the client component of the staff: client ratio; summing these quotients; multiplying the sum by the aide hourly wage factor, and then by 2080 (52 weeks times 40 hours per week), to obtain a total annual Direct Service cost; and dividing this total by 365 days and then by the number of clients to obtain the amount for Direct Services per client per day. For example, if a facility serves 40 clients in the mild level of functioning, 30 clients in the moderate level of functioning, and 30 clients in the severe/profound level of functioning, the number of FTE Direct Services staff will be $(40 \text{ divided by } 5) + (30 \text{ divided by } 2.5) + (30 \text{ divided by } 2) = 35$. If the aide hourly wage is \$5.00, the total annual cost will be $35 \times \$5 \times 2080 = \$364,000$. The amount for FTE Direct Services per client per day will then be $\$364,000 \text{ divided by } 365 \text{ divided by } 100 = \9.97 .
 - ii) In ICF/DD-16 facilities, the foregoing calculation is modified such that in step two of subsection (a)(1)(C)(i) above, the facility may receive an amount for up to an additional .5 FTE. Direct Service is

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determined by multiplying .5 FTE by the proportion found by the ratio of the number of Medicaid eligible clients in the severe/profound level of functioning divided by the total number of eligible clients.

- 2) Licensed Nurses-Facilities must be in compliance with HCFA (42 CFR 483.460) and Illinois Department of Public Health (IDPH) (77 Ill. Adm. Code 350.1230) staffing standards relative to facility type.

A) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) licensed for a population of 90 or fewer clients, none of whom require services under Levels II and III of Specialized Care-Health and Sensory Disabilities (Section 144.150(c) and (d)), will be reimbursed for a minimum of 4.8 FTE nurses. A facility with only such a population which has a licensed capacity greater than 90 clients will be reimbursed for additional FTE nurses according to the following Table:

Licensed Capacity	FTE Nurse : Client Ratio
Client Type	
Greater than 90 clients with no Specialized Care - Health and Sensory Disabilities needs under Levels II and III	1:18.75

B) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) licensed for a population of 30 or fewer clients, all of whom require services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities will be reimbursed for a minimum of 4.8 FTE nurses. A facility with only such a population which has a licensed capacity greater than 30 clients will be reimbursed for additional FTE nurses according to the following Table:

Licensed Capacity	FTE Nurse : Client Ratio
Client Type	
Greater than 30 clients requiring Specialized Care - Health and Sensory Disabilities under Level(s) II and III	1:6.25

AGENCY NOTE: The Omnibus Reconciliation Act of 1987 (P.L. 100-203) requirements prohibit the admission of individuals

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with a primary diagnosis of mental retardation into non-ICF/MR facilities. Therefore, SNF/PED facilities which meet ICF/MR certification requirements must be certified ICF/MR in order to comply with federal law when admitting individuals with mental retardation. Facilities which undergo certification conversion to ICF/MR will retain State licensure for skilled care (SNF/PED).

C) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) which has a licensed capacity of 30 clients or more, some of whom require services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities, and some of whom do not require such services, will be reimbursed for a minimum of 4.8 FTE nurses for non Specialized Care individuals plus additional FTE nurses, up to a maximum of a 1:6.25 ratio, according to the following Table:

Client Type	FTE Nurse : Client Ratio
Clients requiring Specialized Care - Health and Sensory Disabilities under Level(s) II and/or III	1:6.25

Client Type	FTE Nurse : Client Ratio
Clients with no Specialized Care needs under Levels II and III	1:18.75

For example, for a facility with a licensed capacity of 42 clients, 15 of whom require services under Level(s) II and/or III, and 27 of whom do not require such services, the number of FTE nurses will be $(15 \text{ divided by } 6.25 = 2.40) + (27 \text{ divided by } 18.75 = 1.44)$, however, reimbursement will be calculated at the minimum of 4.8 = 7.2. Utilizing the maximum client ratio allowed, the facility will be reimbursed for 6.72 FTE nurses $(42 \text{ divided by } 6.25 = 6.72)$.

D) Licensed nurses are not required in an ICF/DD-16 if none of the clients require a physician's medical care plan of treatment.

i) An ICF/DD-16 which has eight or fewer clients with medical care plans of treatment but who do not require services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, will be reimbursed for .5 FTE nurse. A facility with nine or more such clients will be reimbursed for one FTE nurse.

ii) An ICF/DD-16 with clients requiring medical care plans

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of treatment and additional medical services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, will be reimbursed according to the method in subsection (a)(2)(D)(i) above, plus additional reimbursement for licensed nurses using an FTE nurse: client ratio of 1:6.25 up to a maximum of the 1:6.25 ratio.

E) The licensed nurse component is computed similarly to the method in subsection (a)(1)(C) above. To determine the amount for Licensed Nurses, the number of FTE nurses required for each facility type and/or for clients receiving services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, shall be obtained according to subsections (a)(2)(A), (B), (C) and (D) above. This number is multiplied by the hourly nurse wage factor and then by 2080 (52 weeks x 40 hours). The product is divided by 365 and then by the number of clients.

3) The total reimbursement amount for Minimum Staffing is the sum of the amount for Direct Staff plus the amount for Licensed Nurses.

b) Active Treatment

1) Qualified Mental Retardation Professional (QMRP) - a person who has at least one year of experience working directly with persons with mental retardation or other developmental disabilities, and is one of the following:

A) A doctor of medicine or osteopathy.

B) A registered nurse.

C) An individual who holds at least a bachelor's degree in one of the following professional categories: Occupational Therapist; Physical Therapist; Psychologist. Master's Degree; Social Worker; Recreation Specialist; Registered Dietitian; and Human Services, including but not limited to Sociology, Special Education, Rehabilitation Counseling, and Psychology. (42 CFR 483.430)

D) The amount for QMRPs assumes that a full-time QMRP is required for every 15 clients. The number of QMRPs shall be obtained by dividing the number of clients in the facility by 15. The obtained number of QMRPs is multiplied by the hourly wage factor and then by 2080. The product is divided by 365 and then by the number of clients to arrive at an amount per client per day.

2) Interdisciplinary Team (IDT)

A) The amount for services rendered by the IDT assumes that each client requires one day of IDT services per year. This amount is computed to be \$1.82 per client per day.

B) Interdisciplinary Team - A team which represents the professions, disciplines, or service areas that are relevant to identifying the client's needs and designing programs that meet the client's needs. Appropriate facility staff

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must participate in interdisciplinary team meetings. Participation by other agencies serving the client is required (89 Ill. Adm. Code 140.647). Participation by the client, his or her parent (if the client is a minor), or the client's legal guardian is required unless the participation is unobtainable or inappropriate. (42 CFR 483.440)

3) Additional Direct Service Staff (ADSS)

A) The amount for ADSS assumes an FTE staff/client ratio of 1:7.5. The total number of clients is divided by 7.5 and a per diem amount is obtained according to the method described in subsection (a)(1)(B) of this Section. In SDC facilities, the foregoing calculation is modified so that the overall level of functioning is distributed proportionately across each living unit (16-18 clients) in step one of the calculation. If dividing the number of clients results in a fraction, it is rounded up to the next whole number in proportion to the number of clients in the severe/profound level of functioning. The total FTE is obtained by summing the calculation results from each living unit.

B) Additional Direct Services Staff - Staff which is in addition to HCFA's minimum average daily staffing standards (subsection (a)(1) of this Section), and for which the Department will provide reimbursement to ensure the delivery of active treatment. Examples of ADSS include, but are not limited to, staff who provide activity services, dietetic aides, and music therapists.

4) The total reimbursement amount for Active Treatment is the sum of the amounts for QMRP, IDT and ADSS.

c) Specialized Care

An additional amount shall be paid for clients meeting the requirements for services under Specialized Care. Detailed descriptions of services under Specialized Care are found in Section 144.125 Specialized Care - Behavior Development Programs, and Section 144.150, Specialized Care - Health and Sensory Disabilities. The service Level for each client meeting the criteria of more than one Level under Specialized Care shall be determined according to his/her disability or functional deficit which represents the most intense need for services under Specialized Care, and results in the greatest reimbursement.

1) Specialized Care - Behavior Development Programs

Behavior development programs are related to maladaptive behaviors which occur with high frequency and/or great severity, and are instituted for the reduction of maladaptive behaviors and/or the increase of adaptive behaviors. The behavior development program shall demonstrate the need for and use of a more intensive staffing pattern (direct care staff) than the regular pattern which is reimbursed for under subsection (a)(1)

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of this Section. The service Level for a client who meets the requirements for services under Specialized Care - Behavior Development Programs will be identified and validated during the most recent IOC.

A) Level I - .5 hours FTE Direct Service per day. More intense program services are provided for behaviors which occur with high frequency but moderate severity, such as verbal abuse one or more times per four hours which is hostile in tone and content.

B) Level II - 1.0 hours FTE Direct Service per day. More intense program services are provided for behaviors which occur with high frequency and are aggressive or destructive, such as purposeful attacks of others which may result in minimal injuries, one or more times per day.

C) Level III - 2.0 hours FTE Direct Service per day. More intense program services are provided for behaviors which occur with very high frequency such as hyperactivity one or more times per minute, or occur with high frequency and are seriously aggressive, assaultive or destructive and which may result in serious injury.

2) Specialized Care - Health and Sensory Disabilities

Specialized services for health and sensory disabilities refer to care which some clients must receive in order to attain physical health and development.

A) Definitions

i) Ambulatory-The client is capable of walking without assistance or the aid of adaptive equipment or devices.

ii) Mobile Nonambulatory-The client is capable of locomotion with mobility assistance such as adaptive equipment or devices.

iii) Nonmobile-The client is not capable of locomotion even with mobility assistance.

B) Level I - .5 hours FTE Direct Service per day. The client is ambulatory, mobile nonambulatory, or has the potential to become mobile nonambulatory, and requires services to compensate for a sensory deficit (auditory or visual), or services enabling him/her to be mobile (physical disabilities).

i) Sensory deficits-visual. The client's vision is 20/200 or less in the better eye with the greatest possible correction [20 ILCS 2420/2].

ii) Sensory deficits-auditory. The client has a hearing impairment of at least 55 decibels in the better ear, unaided.

iii) Physical disabilities means physical impairments which result in functional deficits requiring the client to receive training in the use of a device or devices, to

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achieve some level of independent mobility.

- C) Level II - 1.0 hours FTE Direct Service per day. The client is nonmobile or mobile nonambulatory, requires mobility assistance, and requires services to meet high personal care needs. The client may also have significant daily medical needs and/or dual sensory deficits (visual and auditory).

- i) Mobility assistance means assistance in transferring from a bed to an alternative position device, and assistance with movement/mobility around the facility.
- ii) High personal care means one or more of the following: assistance with bathing, clothing, grooming and hygiene, eating and continence; position changes at two hour intervals, or as specified in the individual program plan; range of motion twice a day, or as specified in the individual program plan.
- iii) Daily medical need means daily insulin injections, drug (insulin) monitoring, and/or ostomy care for a jejunostomy, ileostomy or colostomy.
- iv) Dual sensory deficits means both an auditory disability and a visual disability.

AGENCY NOTE: A client who meets the criteria for Level II services is eligible for the FTE nurse:client ratio according to subsections (a)(2)(B), (C) and (D) of this Section.

- D) Level III - 2.0 hours FTE Direct Service per day. The client is typically nonmobile or mobile nonambulatory, but may be ambulatory, and requires services to meet high medical needs. High medical needs mean one or more of the following:

- i) daily intermittent catheterization;
- ii) care for wounds including stage III and IV decubitus ulcers, deep wounds, infected wounds, extensive burns, or extensive lesions requiring treatment in the form of medications, dressings, whirlpool, ultraviolet light and/or irrigations;
- iii) respiratory care including tracheotomy care, positive pressure breathing treatments, aerosol therapy, postural drainage and percussion, vibration and/or suctioning;
- iv) feeding via nasogastric tube, or prolonged oral feeding; and
- v) intensive physical habilitation due to a functional deficit as determined by physical or psychological causes.

AGENCY NOTE: A client who meets the criteria for Level III services is eligible for the FTE nurse:client ratio according to subsections (a)(2)(B), (C) and (D) of this Section.

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- 3) The total reimbursement amount for Specialized Care shall be the sum of the amounts determined under subsections (c)(1) and (2) of this Section, pro-rated over the number of eligible clients identified in the most recent facility reimbursement survey. For example, if the hourly wage is \$5.00, assume a facility with ten residents, two of whom meet the criteria for Specialized Care - Health and Sensory Disabilities Level II, subsection (c)(2)(C) of this Section, with no daily medical needs or sensory deficits, and eight of whom do not meet Specialized Care criteria. The facility will receive an amount of \$.81 per client per day (two hours X 1.14 (FTE adjustment factor) divided by eight hours/day = .285 staff; then .285 X (2080 hours/year divided by 365 days/year); then divide by ten clients and multiply by \$5.00 to obtain \$0.81).

d) Related Costs

- 1) An amount per client per day will be paid for other program costs, including program - related supplies, consultants and other items necessary for the delivery of active treatment to clients in accordance with their individual program plans.
- 2) For each facility type, this amount will be determined as follows. Add the amounts determined for subsections (a), (b) and (c) of this Section, but excluding the amount for the IDT (subsection (b)(2) of this Section), and then multiply this sum by the facility's geographic area Health--Service-Area--HSA) grouping (89 Ill. Adm. Code 140. Table B). The product plus the amount for the IDT (subsection (b)(2) of this Section), is then multiplied by a constant for the facility type, as follows:

Facility Type	Constant
ICF/DD	.10
SNF/PED or ICF/DD	.15
(An ICF/DD with some clients requiring services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities).	
ICF/DD-16 & SLC	.20

- 3) An ICF/DD with some clients requiring services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities, and some clients not requiring such services will have the total related cost calculated according to the weighted sum of the number of clients requiring Level(s) II and/or III multiplied by .15, plus the number of clients not requiring such services multiplied by .10. For example, for a facility with a licensed capacity of 90 clients, 30 of whom require services under

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period, reimbursement will be made at the Department's sheltered care rate. The sheltered care rate will be payment in full for all program, capital and support costs for such clients.

- D) Reimbursement for a client admitted to a small scale ICF/MR who is determined to be ineligible, or who is without a determination of eligibility by the preadmission screening process, will be set at the sheltered care rate. The sheltered care rate will be payment in full for all program, capital and support costs. Payment for services for each client who has not been found eligible for the ICF/MR program upon admission will terminate 30 days following the date of admission. Reimbursement for residential services for such a client which is paid to the facility beyond the 30 day period following admission will be recouped by the Department from the next facility payment or other contractual time period.

E) The facility rate paid will be the weighted average of the total per diem (including capital and support) calculated for eligible clients with mild, moderate and severe/profound levels of overall functioning and the Department's sheltered care rate for clients admitted without previously determined ICF/MR eligibility, or who are ineligible for ICF/MR services as determined by the IDT or IOC process, and remain in the facility for more than one year following the date of the determination of ineligibility.

2) Licensed Nurses

- A) If a client requires nursing services due to a physician's plan of care, reimbursement is calculated according to Section 144.275(a)(2)(D). The FTE nurse to client ratios which are specified for ICF/MR facilities with 16 or fewer beds, are also used for a set of small scale ICF/MR facilities as identified by the provider agreements (see 89 Ill. Adm. Code 140.561(a)).
- B) The licensed nurse component is computed according to the method in Section 144.275(a)(2)(E).
- 3) The total reimbursement amount for Minimum Staffing is the sum of the amount for Direct Services staff plus the amount for Licensed Nurses.

b) Active Treatment

- 1) Qualified Mental Retardation Professional (QMRP) (Section 144.275(b)(1)(A), (B) and (C)).
 - A) The reimbursement amount paid is based on sixteen clients in an identified set of 4-person and 6-person ICFs/MR.
 - B) The amount for QMRPs is based on a required full-time QMRP for every 15 clients. The number of QMRPs shall be obtained by dividing the number of clients in the facility by 15. The amount paid for QMRPs is computed according to the

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- 2) Interdisciplinary Team (IDT) (Section 144.275(b)(2)(B)) - The amount for services rendered by the IDT is based on one day of IDT services per year for each client. This amount is computed to be \$1.82 per client per day.
- 3) The total reimbursement amount for Active Treatment is the sum of the amounts for QMRP and IDT.

c) Related Costs

- 1) An amount per client per day will be paid for other program costs, including program related supplies, consultants and other items necessary for the delivery of active treatment to clients in accordance with their individual program plans.
- 2) For each facility, this amount will be determined as follows. Add the amount determined for subsections (a) and (b), but exclude the amount for the IDT. Multiply this sum by the factor determined for the facility's geographic area HSA-grouping. The product plus the amount for the IDT is then multiplied by the constant of .20.

- 3) An amount will be paid for dental services that are in compliance with the Health Care Financing Administration's regulations (42 CFR 483.460(e), (f) and (g)(1994)) for each client age 21 or more. This amount will be determined by adding the flat per diem of \$.40 to the amount calculated according to subsection (c)(2) above. This per diem will cover the costs of prophylaxis treatment up to once every six months, and periodontal services as needed for each eligible client. An amount will also be paid for emergency dental services pursuant to Section 144.275(d)(4).

- d) Total Program Per Diem - Total program per diem for each small scale residential facility will be the sum of the amounts from subsections (a), (b) and (c) of this Section.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 144.325 Capital Rate Calculation

- a) Capital rates for ICF/MR facilities with four or six beds will be calculated by the Department of Mental Health and Developmental Disabilities according to this Section, which provides calculation methods for rates for various capital categories. Rate charts will be prepared each year based upon these provisions. The rate for an individual facility will be selected based upon the following criteria:
 - 1) New construction or remodeled building. If the facility is a remodeled building the base cost will be used to assign it to a category.
 - 2) Base Year
 - 3) Location

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b) The terms used in this Section are defined as follows:

- 1) "Arm's-length transaction" means a transaction between a buyer and a seller both free to act, each seeking his own best economic interest. A transaction between related parties as defined in 89 Ill. Adm. Code 140.537 is not considered to be an arm's-length transaction.
- 2) "Base Year" refers to the weighted average year of investment in the actual construction of the building. The Base Year is determined using the components of the building cost, which are included in the Building Base Cost, and the corresponding years of acquisition or construction. The year of each component of the total investment is multiplied by the cost of each year's investment. The sum of these products is then divided by the total Building Base Cost to yield an average year of construction. Any fractional portion of the Base Year derived from this calculation will be truncated. The Base Year will not change due to sale or lease of the building.
- 3) "Capital Days" are used to convert all capital items to per diem amounts. A 93% occupancy standard is used in the rate calculation.
- 4) Building Base Cost refers to the cost to purchase the building to be first licensed as an ICF/DD-16 facility with four or six beds. Only costs associated with arms-length transactions between unrelated parties will be considered. The allowable cost of subsequent improvements to the building will be included in the building base cost. The building base cost will not change due to sales or leases of the facility.
- 5) "Square feet per bed" is defined as 445 square feet per bed for a four bed facility and 365 square feet per bed for a six bed facility.
- 6) "New Construction Cost Per Square Foot" is defined as the costs published by the R.S. Means Company, Inc.. Data will come from the most recent edition of the Means Square Foot Costs publication. The cost used per square foot for new construction is based upon average residential one story construction. Factors are included for wood frame, wood siding, central air, and two bathrooms.
- 7) Location. The facilities will be separated into one of the following location groups:
 - A) Group 1 - Cook, DuPage, Will and Lake counties.
 - B) Group 2 - Counties 175,000 to 1,000,000 population.
 - C) Group 3 - Counties below 175,000 population.
- 8) New building construction refers to construction of a complete building for the purpose of being licensed and operated as an ICF/DD-16 facility with four or six beds.
- 9) Remodeled buildings refer to buildings which previously existed for some other function and were remodeled to be licensed and operated as an ICF/DD-16 facility with four or six beds.

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c) The rates will be calculated for facilities constructed during the current rate year according to the following steps. These steps will result in six different rate categories. There is a four bed rate and a six bed rate within each of three different location categories.

- 1) Preliminary Cost Per Bed - The new construction cost per square foot is multiplied by the square feet per bed to get a preliminary cost per bed.
- 2) Revised Cost Per Bed
 - A) The preliminary cost per bed is multiplied by a 120% adjustment factor and is then further increased by factors for a two car garage and for sprinklers as follows:
 - i) Garage - The R.S. Means Company, Inc. projected cost for an attached two car garage is divided by four or six beds whichever is applicable to obtain a cost per bed.
 - ii) Sprinklers - A \$6,200 sprinkler cost is divided by four or six beds whichever is applicable to obtain a cost per bed.
 - B) The result of this step is a revised cost per bed for new construction.
- 3) Localized Cost Per Bed
 - A) The revised cost per bed is multiplied by a locality adjutor for the applicable area of the State in which the facility is located. A separate locality adjutor is calculated for the following areas:
 - i) Cook, DuPage, Will and Lake counties.
 - ii) Counties 175,000 to 1,000,000 population (excluding DuPage, Will and Lake Counties).
 - iii) Counties below 175,000 population.
 - B) The locality adjutors are calculated as the average of all locality factors for each area in the most recent R.S. Means Company, Inc. publication.
 - C) The result of this step is the localized cost per bed.
- 4) Total Projected Investment Per Bed - Land is added to the localized cost per bed to arrive at the total projected investment per bed. Land is based upon \$25,000 for facilities located in the Cook, DuPage, Will and Lake counties. Counties with a population of 175,000 to 1,000,000 will use a \$18,750 total land cost. Counties with a population below 175,000 will use a \$12,500 total land cost. The total land cost is divided by four or six beds to determine the land cost per bed.
- 5) The total projected investment per bed is divided by 339 client days ($365 \text{ days} \times 93\% = 339$) to arrive at a per diem investment.
- 6) The per diem investment is multiplied by a 11% rate of return and further increased by \$3.01 per diem for equipment, working capital costs and vehicles to obtain the rate.
- 7) The rates for facilities with a base year which is older than the current rate year will be calculated using the same steps as

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newly constructed facilities in subsection (c) except for the localized cost per bed in subsection (c)(3). The localized cost per bed is discounted by a 3% obsolescence for each year between the base year and the current year.

8) A table will be prepared by the Department of Mental Health and Developmental Disabilities which will list all applicable rates for each rate year. The rate for any facility will be looked up based upon the base year, bed size and location of the facility.

9) Rates for Remodeled or Existing Construction

A) To recognize the potentially wide range of investment in existing facilities to be converted into small scale ICF/MR facilities with four or six beds, modifications have been made to the calculation of total projected investment for subsection (c)(4).

B) The buildings which were remodeled will be separated into four categories using the lower of the actual land and building purchase price plus remodeling cost per bed, or the appraisal cost of land and building per bed. This assignment to categories is based upon comparison of the facility's cost (lower of actual or appraisal) to the result of the following percentages of the projected investment from subsection (c)(4): (Equipment cost is not included in this comparison.)

- i) Category 1 - 77.5% and above
- ii) Category 2 - 62.5% to 77.4%
- iii) Category 3 - 47.5% to 62.4%
- iv) Category 4 - 47.4% and less

C) The total projected investment from subsection (c)(4) will be multiplied by the following category percentages as applicable, and rates calculated based upon the remaining provisions in subsection (c):

- i) Category 1 - 85%
- ii) Category 2 - 70%
- iii) Category 3 - 55%
- iv) Category 4 - 40%

d) Rented facilities will have the capital rates calculated by the same procedures as are used for owned facilities.

e) Property Taxes

1) For four and six bed facilities which can show they will be required to pay property taxes, the Department will have the median property tax rate for their geographic area HSA added to the capital rate.

2) In subsequent years the property tax portion of the capital rate will be calculated in accordance with 89 Ill. Adm. Code 140.578(b).

f) Combined Rate

1) Small scale ICF/MR facilities are separately licensed facilities. However, reimbursement for capital costs is based on the sixteen

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person capacity of a set of four 4-person facilities, or one 4-person plus two 6-person facilities (see 89 Ill. Adm. Code 140.561(b)). The set of small facilities used in computing the capital rate will be identified in the provider agreements.

2) A separate capital rate will be calculated for each licensed facility in the set of four facilities or one 4-person plus two 6-person facilities. These rates will be combined to arrive at one average capital rate for the set. The averaging of the capital rates will be weighted according to the number of licensed beds in each of the four facilities in the set.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Numbers: Proposed Action:
147.205 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments concerning nursing facilities reassign the \$.10 emergency dental services add-on which has been in effect since December 1, 1995. This add-on has been necessary because the State's budget plan for fiscal year 1996 called for cost containment measures in some areas of the Department's medical assistance program and coverage for some optional Medicaid funded care, including dental services, was eliminated for recipients age 21 or over. However, coverage was restored for emergency dental services for adults in January 1997. Therefore, the Department is reassigning the \$.10 emergency dental add-on to the per diem for care planning, increasing the amount from \$.35 to \$.45.

Additional proposed changes are being made to update Section 147.205 by changing Health Service Area references to the currently used term, geographic area.

These proposed amendments will not result in any budgetary changes.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations

ILLINOIS REGISTER605597

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Illinois Department of Public Aid
100 South Grand Ave., E., 3rd Floor
Springfield, IL 62762
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these amendments at the Department of Public Aid's local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Nursing facilities
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: January 1997
- The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR

GERIATRIC FACILITIES

Section 147.5	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities	of 1987
147.15	Comprehensive Resident Assessment	
147.25	Functional Needs and Restorative Care	
147.50	Service Needs	
147.75	Definitions	
147.100	Reconsiderations	
147.105	Midnight Census Report	
147.125	Times and Staff Levels	
147.150	Statewide Rates	
147.175	Referrals	
147.200	Basic Rehabilitation Aide Training Program	
147.205	Nursing Rates	
147.250	Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (PL 100-203)	
147.300	Determination of Program (Psychiatric Rehabilitation Services) Costs	
147.305	Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities	
147.310	Inspection of Care (TOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness	
147.315	Comprehensive Functional Assessments and Reassessments	
147.320	Interdisciplinary Team (IDT)	
147.325	Comprehensive Program Plan (CPP)	
147.330	Specialized Care - Administration of Psychopharmacologic Drugs	
147.335	Specialized Care - Behavioral Emergencies	
147.340	Discharge Planning	
147.345	Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness	
147.350	Reimbursement for Additional Program Costs Associated with Providing Specialized Services for Individuals with Developmental Disabilities in Nursing Facilities	
TABLE A	Staff Time and Allocation by Need Level	
TABLE B	Staff Time and Allocation for Restorative Programs	
TABLE C	Comprehensive Resident Assessment	
TABLE D	Functional Needs and Restorative Care	
TABLE E	Service	
TABLE F	Social Services	

TABLE A	TABLE B	TABLE C	TABLE D	TABLE E	TABLE F
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Section 147.205 Nursing Rates

For residential nursing services provided to Medicaid residents in skilled and intermediate care facilities from January 1, 1989, unless otherwise indicated,

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the Department will determine nursing rates according to the following steps:

- a) Calculation of the nursing rate: For each facility, the nursing rate will be computed according to the methods specified in Section 147.150(b), employing reimbursable staff times as specified in Section 147.Tables A and B for all assessment items.
- b) Calculation of the final nursing rate: for each facility, a final nursing rate will be equal to the sum of the nursing rate (see subsection (a) above) plus an add-on for Care Planning equal to \$.45 \$-.95 per resident day, statewide. Effective July 1, 1992 and ending August 31, 1993, there will be an additional wage adjuster add-on of \$1.58 per resident day for geographic areas HSA's that have wages equal to or above the Statewide average and \$2.00 per resident day for geographic areas HSA's that have wages below the Statewide average. Effective September 1, 1993, the wage adjuster add-on will be eliminated.
- An add-on-of-\$10-per-resident-day-will-be-paid-for-emergency-dental services--that-are-in-compliance-with-federal-regulations-(42-CFR 483.55-(f)(94))-including-services-needed-to-treat-an-episode-of-acute pain-in-the-teeth-gums-or-palate-broken-or-otherwise-damaged-teeth-or-any-other-problem-of-the-oral-cavity-appropriately-treated-by-a dentist-that-requires-immediate-attention-

(Source: Amended at 21 Ill. Reg. _____, effective _____)

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT (S)

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|-----|--|---|
| 1) | <u>Heading of the Part:</u> | Universities Retirement |
| 2) | <u>Code Citation:</u> | 80 Ill. Adm. Code 1600 |
| 3) | <u>Section Number:</u>
1600.90 | <u>Proposed Action:</u>
New Section |
| 4) | <u>Statutory Authority:</u> | 40 ILCS 5/1-116 |
| 5) | A Complete Description of the Subjects and Issues Involved: This Section will provide benefits for certain State Universities Retirement System (SURS) participants who participate in SURS in excess of the limitations on benefits imposed by Section 415 of the Internal Revenue Code on plans to which that Section applies. | |
| 6) | <u>Will this proposed rule replace an emergency rule currently in effect?</u>
Yes | |
| 7) | <u>Does this rulemaking contain an automatic repeal date?</u> | No |
| 8) | <u>Does this proposed amendment contain incorporations by reference?</u> | No |
| 9) | <u>Are there any other proposed amendments pending on this Part?</u> | Yes |
| | <u>Section Numbers</u>
1600.30 | <u>Proposed Action</u>
Amend
<u>Illinois Register Citation</u>
21 Ill. Reg. 4977
(April 18, 1997) |
| 10) | <u>Statement of Statewide Policy Objectives:</u> N/A | |
| 11) | <u>Time, place and Manner in which interested persons may comment on this proposed rulemaking:</u> | |
| | Judith A. Parker
Deputy Director
State Universities Retirement System
P.O. Box 2710
Champaign, IL 61825-2710
217/378-8800 | |
| | All comments received within 45 days of this issue of the <i>Illinois Register</i> will be considered. | |

All comments received within 45 days of this issue of the Illinois Register will be considered.

- 12) Initial Regulatory Flexibility Analysis
- A) Types of small businesses, small municipalities and not for profit corporations affected: SURS believes that this rulemaking will not impose any direct impact on small businesses, small municipalities or

Judith A. Parker
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STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT(S)

not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on either of the 2 most recent agendas because: rulemaking was not anticipated.

The full text of the Proposed Amendment begins on the next page:

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEM

PART 1600

UNIVERSITIES RETIREMENT

Section	Definitions
1600.10	Dependency of Beneficiaries
1600.20	Crediting Interest on Employee Contributions and Other Reserves
1600.30	Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.40	Election to Pay Contributions Based Upon Employment Which Preceded Certification as a Participant
1600.50	Procedures to be followed in Medical Evaluation of Disability Claims
1600.70	Rules of Practice-Nature and Requirements of Formal Hearings
1600.80	Excess Benefit Arrangement
1600.90	Chart Outlining Hearing Procedures

APPENDIX A

AUTHORITY: Implementing and authorized by Article 15 and Section 1-116 of the Illinois Pension Code [40 ILCS 5/1-116 and Art. 15].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. _____, effective _____.

Section 1600.90 Excess Benefit Arrangement

- a) The Excess Benefit Arrangement of the State Universities Retirement System of Illinois (Arrangement) is adopted effective January 1, 1995. The Arrangement is established and maintained by the State Universities Retirement System of Illinois (SURS) solely for the purpose of providing benefits for certain of its participants who participate in SURS in excess of the limitations on benefits imposed by Section 415 of the Internal Revenue Code on plans to which that Section applies.
- b) The Arrangement is adopted pursuant to the authority granted to SURS by Section 1-116 of the Illinois Pension Code [40 ILCS 5/1-116].
- c) This Arrangement is a portion of a governmental plan (as that term is defined in Section 414(d) of the Internal Revenue Code of 1986, as amended, and Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended) and is administered as a qualified governmental excess benefit arrangement pursuant to the provisions of

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Internal Revenue Code Section 415(m).

d) Accordingly, SURS hereby adopts the Arrangement pursuant to the terms and provisions set forth below:

1) Definitions.

Wherever used herein, the following terms shall have the meanings hereinafter set forth:

- A) "Board" means the Board of Trustees of SURS.
- B) "Code" or "IRC" means the Internal Revenue Code of 1986, as amended from time to time, and any regulations relating thereto.
- C) "Employer" means an employer as defined at Section 15-106 of the Illinois Pension Code.
- D) "Retirement Date" means the beginning date of the annuity payment period set forth in Section 15-135 of the Illinois Pension Code.
- E) "Participant" means a person as defined at Section 15-108 of the Illinois Pension Code.
- F) "Arrangement" means the Excess Benefit Arrangement of the State Universities Retirement System of Illinois.
- G) "Qualified Plan" means the SURS plan at Article 15 of the Illinois Pension Code.
- H) "Qualified Plan Retirement Benefit" means the aggregate benefit payable to a Participant pursuant to the Qualified Plan.
- I) "Qualified Plan Surviving Spouse Benefit" means the aggregate benefit payable to the Surviving Spouse of a Participant pursuant to the Qualified Plan.
- J) "Supplemental Retirement Benefit" means the benefit payable to a Participant pursuant to the Arrangement by reason of his termination of employment with any Employer for any reason other than death.
- K) "Surviving Spouse" means a person as defined at Section 15-127 of the Illinois Pension Code.
- L) "Supplemental Surviving Spouse Benefit" means the benefit payable to a Surviving Spouse pursuant to the Arrangement.

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M) "Limitation Year" means that period for which all calculations and determinations of benefits and contribution limits will be made under IRC Section 415 and this Arrangement. The "Limitation Year" shall be the calendar year.

N) Words in the masculine gender shall include the feminine and the singular shall include the plural, and vice versa, unless qualified by the context. Any headings used herein are included for ease of reference only, and are not to be construed so as to alter the terms hereof.

2) Eligibility.

A Participant who is eligible to receive a Qualified Plan Retirement Benefit, the amount of which is reduced by reason of the application of the limitations on benefits imposed by application of Section 415 of the Code, as in effect on the date for commencement of the Qualified Plan Retirement Benefit, or as in effect at any time thereafter, to the Qualified Plan shall be eligible to receive a Supplemental Retirement Benefit. The Surviving Spouse of a Participant described in the preceding sentence shall be eligible to receive a Supplemental Surviving Spouse Benefit.

3) Supplemental Retirement Benefit.

A) Amount. The Supplemental Retirement Benefit payable to an eligible Participant shall be a monthly amount equal to the difference between subsections (d)(3)(A)(i) and (ii) below.

- i) The monthly amount of the Qualified Plan Retirement Benefit to which the Participant would have been entitled under the Qualified Plan if such Benefit were computed without giving effect to the limitations on benefits imposed by application of Section 415 of the Code to plans to which that section applies; LESS
- ii) The monthly amount of the Qualified Plan Retirement Benefit actually payable to the Participant under the Qualified Plan.

The amounts described in subsections (d)(3)(A)(i) and (ii) shall be computed annually, based upon a calendar year limitation year.

B) Form of Benefit. The Supplemental Retirement Benefit payable to a Participant shall be paid in the same form under which the Qualified Plan Retirement Benefit is payable to the Participant. The Participant's election under the Qualified Retirement Benefit (with the valid consent of his Surviving Spouse where required under the Qualified Plan) shall also be applicable to the payment of his Supplemental Retirement Benefit.

C) Commencement of Benefit. Payment of the Supplemental Retirement Benefit to a Participant shall commence on the

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same date as payment of the Qualified Plan Retirement Benefit to the Participant commences. Any election under the Qualified Plan made by the Participant with respect to the commencement of payment of his Qualified Plan Retirement Benefit shall also be applicable with respect to the commencement of payment of his Supplemental Retirement Benefit.

4) Supplemental Surviving Spouse Benefit.

A) Amount. If a Participant dies under circumstances in which a Qualified Plan Surviving Spouse Benefit is payable to his Surviving Spouse, then a Supplemental Surviving Spouse Benefit is payable to his Surviving Spouse as hereinafter provided. The monthly amount of the Supplemental Surviving Spouse Benefit payable to a Surviving Spouse shall be equal to the difference between subsections (d)(4)(A)(i) and (ii) below.

i) The monthly amount of the Qualified Plan Surviving Spouse Benefit to which the Surviving Spouse would have been entitled under the Qualified Plan if such Benefit were computed without giving effect to the limitations on benefits imposed by application of Section 415 of the Code to plans to which that section applies; LESS

ii) The monthly amount of the Qualified Plan Surviving Spouse Benefit actually payable to the Surviving Spouse under the Qualified Plan.

B) Form and Commencement of Benefit. A Supplemental Surviving Spouse Benefit shall commence and be payable in the same manner as the Qualified Plan Surviving Spouse Benefit is paid.

5) Administration of the Arrangement.

A) Administration by SURS. SURS shall be responsible for the general operation and administration of the Arrangement and for carrying out the provisions thereof. SURS shall have the authority to interpret this Arrangement and to issue such policies with respect to this Arrangement as it deems appropriate. SURS shall have the duty and responsibility to maintain records and to make calculations and determinations of benefits hereunder. SURS regulations, interpretations, determinations, and calculations shall be final and binding upon all persons and parties concerned.

B) General Powers of Administration. All provisions set forth in the Qualified Plan with respect to the administrative powers and duties of SURS, expenses of administration, and procedures for filing claims shall also be applicable with respect to the Arrangement, including, but not limited to, the provisions of Sections 15-185, 15-186.1, 15-187, 15-190, and 15-191. SURS shall be entitled to rely conclusively

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upon all tables, valuations, certificates, opinions, and reports furnished by any actuary, accountant, controller, counsel, or other person employed or engaged by SURS with respect to the Arrangement.

6) Amendment or Termination.

A) Amendment or Termination. SURS reserves the right to amend or terminate the Arrangement when, in the sole opinion of SURS, such amendment or termination is advisable. Any such amendment or termination shall be made pursuant to a resolution of the Board and shall be effective as of the date set forth in the resolution.

B) Effect of Amendment or Termination. No amendment or termination of the Arrangement shall directly or indirectly deprive any current or former Participant or Surviving Spouse of all or any portion of any Supplemental Retirement Benefit or Supplemental Surviving Spouse Benefit payment that has commenced prior to the effective date of such amendment or termination or which would be payable if the Participant terminated employment for any reason, including death, on such effective date.

7) General Provisions.

A) Funding. The Arrangement at all times shall be entirely unfunded and no provision shall at any time be made with respect to segregating any assets of SURS, of the State of Illinois, or of any Employer for payment of any benefits hereunder. No Participant, Surviving Spouse, or any other person shall have any interest in any assets of SURS, the State, or of any Employer by reason of the right to receive a benefit under the Arrangement.

B) General Conditions. Except as otherwise expressly provided herein, all terms and conditions of the Qualified Plan applicable to a Qualified Plan Retirement Benefit or a Qualified Plan Surviving Spouse Benefit shall also be applicable to a Supplemental Retirement Benefit or a Supplemental Surviving Spouse Benefit payable hereunder. Any Qualified Plan Retirement Benefit or Qualified Plan Surviving Spouse Benefit, or any other benefit payable under the Qualified Plan, shall be paid solely in accordance with the terms and conditions of the Qualified Plan and nothing in this Arrangement shall operate or be construed in any way to modify, amend or affect the terms and provisions of the Qualified Plan.

C) No Guaranty of Benefits. Nothing contained in the Arrangement shall constitute a guaranty by SURS, the State, any Employer, or any other entity or person that the assets of any such entity will be sufficient to pay any benefit hereunder.

D) No Enlargement of Employee Rights. No Participant or

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Surviving Spouse shall have any right to a benefit under the Arrangement except in accordance with the terms of the Arrangement. Establishment of the Arrangement shall not be construed to give any Participant the right to be retained in the service of any Employer.

E) Applicable Law. The Arrangement shall be construed and administered under the laws of the State of Illinois.

(Source: Added at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF MENTAL HEALTH
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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Minimum Standards for Certification of Developmental Training Programs
- 2) Code Citation: 59 Ill. Adm. Code 119
- 3) Section Numbers: 119.261
Adopted Action:
New Section
- 4) Statutory Authority: Implementing Section 15.2 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/15.2]
- 5) Effective Date of Adopted Rules: May 5, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes. This rulemaking incorporates by reference rules of the Department of State Police located at 20 Ill. Adm. Code 1265.
- 8) Date filed in Agency's Principal Office: April 29, 1997
- 9) Notice(s) of Proposal Published in Illinois Register: 20 Ill. Reg. 16016 (December 27, 1996)
- 10) Has JCAR issued a Statement of Objections to these rules? No.
- 11) Difference(s) between proposal and final version: The Department made the following changes in response to recommendations from the Administrative Code Division: The Administrative Code did not recommend any changes.

The Department made the following changes in response to recommendations from the Joint Committee on Administrative Rules: All changes recommended by the Joint Committee on Administrative Rules during the first notice period were made.

The Department made the following changes in response to public comments: The Department received one public comment but it did not pertain specifically to this rulemaking.

The Department made the following technical changes: The source notes were revised to read "21 Ill. Reg."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

DEPARTMENT OF MENTAL HEALTH
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- 13) Will these rules replace an emergency rule? No
- 14) Are there any amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
119.120	Amended	21 Ill. Reg. 1532
119.210	Amended	21 Ill. Reg. 1532
119.270	Added	21 Ill. Reg. 1532
119.305	Amended	21 Ill. Reg. 1532

15) Summary and Purpose of Rules: Section 119.261 is being added to implement the waiver provisions of the Health Care Worker Background Check Act [225 ILCS 46]. After January 1, 1997, community agencies are prohibited from knowingly employing or retaining in full-time, part-time or contractual direct care positions any persons who have been convicted of committing or attempting to commit one or more of the offenses listed in Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25] unless the employee or applicant has obtained a waiver. This rulemaking identifies the various types of background checks which must be made and the conditions under which they are to be made. Provisions for conditional employment, termination of employment, waiver eligibility, and the employee's or applicant's right to appeal the waiver decision are included.

16) Information and questions regarding this adopted amendment shall be directed to:

Judith Hollenberg
Rules Administrator
Department of Mental Health and
Developmental Disabilities
401 Stratton Building
Springfield, IL 62765
(217) 785-3313
FAX: (217) 524-8920

The full text of the Adopted Amendment(s) begins on the next page:

DEPARTMENT OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF MENTAL HEALTH AND
DEVELOPMENTAL DISABILITIES

PART 119

MINIMUM STANDARDS FOR CERTIFICATION OF DEVELOPMENTAL TRAINING PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section	Applicability
119.100	Incorporation by reference
119.110	Definitions
119.120	

SUBPART B: PROGRAM REQUIREMENTS

Section	General requirements
119.200	Criteria for participation of individuals
119.205	Exclusion, suspension or discharge of an individual
119.210	Program staff
119.215	Interdisciplinary team (team)
119.220	Assessment of individuals
119.225	Individual services plan (plan)
119.230	Individual rights and confidentiality
119.235	Special training procedures
119.240	Committees
119.245	Medications and medical care
119.250	Environmental management
119.255	Administrative requirements
119.260	Application for waiver of the prohibition against employment
119.261	

SUBPART C: CERTIFICATION REQUIREMENTS

Section	Issuing a certificate and period of certification
119.300	Application for certification
119.305	Application acceptance and verification
119.310	Non-transferability of a certificate
119.315	Cessation of operations
119.320	Certificate denial
119.325	Hearings
119.330	

AUTHORITY: Implementing Section 15.2 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/15.2] and Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Department of Mental Health and Disabilities Act [20 ILCS 1705/15.2].

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SOURCE: Adopted at 14 Ill. Reg. 17227, effective October 9, 1990; emergency amendment at 16 Ill. Reg. 2662, effective February 1, 1992, for a maximum of 150 days; emergency expired June 30, 1992; amended at 21 Ill. Reg. 2195, effective February 1, 1997; amended at 21 Ill. Reg. ~~6067~~, effective 2007.

SUBPART B: PROGRAM REQUIREMENTS

Section 119.261 Application for waiver of the prohibition against employment

a) Hiring of direct care personnel

A provider shall not knowingly hire or retain any person after January 1, 1997 in a full-time, part-time or contractual direct care position if that person has been convicted of committing or attempting to commit one or more of the following offenses unless the applicant or employee obtains a waiver pursuant to subsections (1) through (11) of this Section (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1 through 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1 through 9-3.3]);
- 2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7]);
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1 and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1 and 10-4]);
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7]);
- 5) Sexual assault or abuse (Sections 12-13, 12-14, 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-15 and 12-16]);
- 6) Predatory criminal sexual assault of a child (Section 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-14.1]);
- 7) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
- 8) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
- 9) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3]);
- 10) Criminal trespass (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4]);

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- 11) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1]);
- 12) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.2]);
- 13) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]);
- 14) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

Definitions

For the purposes of this Section, the following terms are defined:

"Applicant." A person seeking employment with a provider who has received a bona fide conditional offer of employment. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Conditional offer of employment." A bona fide offer of employment by a provider to an applicant, which is contingent on the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Direct care." The provision of nursing assistance with meals, dressing, movement, bathing, or other personal needs of maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Initiate." The obtaining of the authorization for a record check from a student, applicant, or employee. The provider shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Nurse Aide Registry." The registry of nurse aides kept by the Department of Public Health pursuant to Section 3-206.01 of the Nursing Home Care Act [210 ILCS 45/3-206.01].

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- "UCIA" The Uniform Conviction Information Act [20 ILCS 2635].
- c) Nurse Aide Registry
For all applicants for nurse aide positions, the provider shall check the Nurse Aide Registry to determine the date of the applicant's last UCIA criminal history record check. If it has been more than one year since the records check, the provider must initiate or have initiated on its behalf a UCIA criminal history record check for the nurse aide. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])
- d) Conditional offers
Effective January 1, 1996, if the provider makes a conditional offer of employment to an applicant other than a nurse aide who is not exempt under subsection (m) of this Section for a direct care position, the provider shall initiate or have initiated on its behalf a UCIA criminal history record check. (Section 30(c) of the Health Care Worker Background Check Act [225 ILCS 46/30(c)])
- e) Initiation of UCIA criminal history record check
By January 1, 1997 the provider must initiate a UCIA criminal history record check for all direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt in accordance with subsection (m) of this Section. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30])
- f) Request for UCIA criminal history record check
The provider shall request the UCIA criminal history record check in accordance with the requirements of the Department of State Police. (See Ill. Adm. Code 1265.) The provider shall notify the applicant or employee of the following whenever a non-fingerprint UCIA Criminal History Record search is made. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30]):
- 1) That the provider shall request or have requested on its behalf a UCIA criminal history record check pursuant to the Health Care Worker Background Check Act;
 - 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report and request a waiver in accordance with subsection (j)(1) of this Section;
 - 3) That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;
 - 4) That the applicant or employee cannot work in a direct care

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- position while a waiver request is pending;
- 5) That the applicant, if not hired conditionally, shall not be hired if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the applicant's record is cleared based on a fingerprint-based record check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;
 - 6) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section.
- g) Conditional employment
The provider may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act [225 ILCS 46/30(g)])
- h) Request for fingerprint-based UCIA criminal records check
An applicant, employee, or nurse aide whose UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses enumerated in subsections (a)(1) through (14) of this Section may request that the provider commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265) within 30 days after receipt of the criminal records report to validate identity and clear one's record. (Section 35 of the Health Care Worker Background Check Act [225 ILCS 46/35])
- i) Eligibility for waiver
- 1) An applicant, employee, or nurse aide may request a waiver of the prohibition against employment. (Section 40 of the Health Care Worker Background Check Act [225 ILCS 46/40])
 - 2) The Department may grant a waiver based on any mitigating circumstances, which may include but not be limited to:
 - A) The applicant's, employee's or nurse aide's age at the time that the crime was committed;
 - B) The circumstances surrounding the crime;
 - C) The length of time since the conviction;
 - D) The applicant or employee's criminal history since the conviction;
 - E) The applicant or employee's work history;
 - F) The applicant or employee's current employment references;
 - G) The applicant or employee's character references;

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- H) Nurse Aide Registry records; and
 I) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, recipients or clients. (Section 40(b) of the Health Care Worker Background Check Act [225 ILCS 46/40(b)])

J) Application for waiver

- 1) If the applicant, employee or nurse aide wishes to request a waiver, the request shall be submitted within 5 calendar days after receipt of the criminal records report. A complete waiver request shall include the following:

- A) A statement specifying any mitigating circumstances (see subsection (i)(2) of this Section) the person believes are relevant to the employment in question; and

B) Either:

- i) Information necessary for the Department to obtain a fingerprint-based UCIA criminal records check, including a suitable set of fingerprints, in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265), the fee for such a check (which shall not exceed the actual cost of the check) and the findings of the required non fingerprint-based UCIA criminal records check conducted by the Department of State Police; or

- ii) The report of the results of the fingerprint-based UCIA criminal records check done pursuant to subsection (h) of this Section.

- 2) Provider staff may assist the applicant, employee or nurse aide in completing the application.

- 3) The waiver request shall be submitted to:

Office of Accreditation and Licensure
Department of Mental Health and Developmental Disabilities
405 Stratton Building
Springfield IL 62765

K) Waiver decision

- 1) The waiver request shall be reviewed by a panel of Department staff. The Department shall return a decision to the applicant, employee, or nurse aide and the provider within 30 calendar days after receipt of the completed waiver request including receipt of a report from the State Police based on the fingerprint-based record check.

- 2) The provider is not obligated to hire or offer permanent employment to an applicant or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act [225 ILCS 46/40(f)])

- 3) The Department shall be immune from liability for any waivers

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granted. (Section 40(e) of the Health Care Worker Background Check Act [225 ILCS 46/40(e)])

1) Appeal of the decision

- 1) The applicant, employee, or nurse aide may request further review of his or her request for a waiver within 30 calendar days after the receipt of the Department's denial of the waiver.

- 2) The applicant, employee, or nurse aide may submit additional documentation of the mitigating circumstances.

- 3) The appeal shall be submitted to:

Office of the Director
Department of Mental Health and Developmental Disabilities
401 Stratton Building
Springfield IL 62765

- 4) The Director shall act on the appeal within 30 calendar days after receipt of the appeal and shall issue a final decision granting or denying the waiver request.

M) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or

- 2) An individual employed or retained by the provider as defined by Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15] for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act [225 ILCS 46/20])

- N) The provider shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for an individual employed as a nurse aide within 10 working days after receipt of the results. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])

- O) The provider shall retain on file for a period of five years records of criminal records requests for all employees. The files shall be subject to inspection by the Department's Office of Accreditation and Licensure. The provider shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. A fine of \$500 may be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act [225 ILCS 46/50])

(Source: ~~Added~~ at 21 Ill. Reg. 6067, effective

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- 1) Heading of the Part: Minimum Standards for Licensure of Community Residential Alternatives
- 2) Code Citation: 59 Ill. Adm. Code 113
- 3) Section Numbers: Adopted Action:
113.51 New Section
- 4) Statutory Authority: Implementing the Health Care Worker Background Check Act [225 ILCS 46] and the Community Residential Alternatives Licensing Act [210 ILCS 140] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104], Section 5 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/5] and Section 5 of the Community Residential Alternatives Licensing Act [210 ILCS 140/5].
- 5) Effective Date of Adopted Rules: May 5, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? This rulemaking does not incorporate by reference any federal statutes or regulations. It does incorporate by reference the rules of the Department of State Police at 20 Ill. Adm. Code 1265.
- 8) Date filed in Agency's Principal Office: April 29, 1997
- 9) Notice(s) of Proposal Published in Illinois Register: 20 Ill. Reg. 16025 (December 27, 1996)
- 10) Has JC&R issued a Statement of Objections to these rules? No.

11) Difference(s) between proposal and final version: **The Department made the following changes in response to recommendations from the Administrative Code Division:** The Administrative Code did not recommend any changes.

The Department made the following changes in response to recommendations from the Joint Committee on Administrative Rules: All changes recommended by the Joint Committee on Administrative Rules during the first notice period were made.

The Department made the following changes in response to public comments: The Department received one public comment but it did not pertain specifically to this rulemaking.

The Department made the following technical changes: The source notes were revised to read "21 Ill. Reg.".

DEPARTMENT OF MENTAL HEALTH
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- 12) Have all the changes agreed upon by the agency and JC&R been made as indicated in the agreement letter issued by JC&R? Yes
 - 13) Will these rules replace an emergency rule? No
 - 14) Are there any amendments pending on this Part? Yes
- | | | |
|------------------------|------------------------|-----------------------------------|
| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
| 113.10 | Amended | 21 Ill. Reg. 1545 |
| 113.55 | Amended | 21 Ill. Reg. 1545 |
- 15) Summary and Purpose of Rules: Section 113.51 is being added to implement the waiver provisions of the Health Care Worker Background Check Act [225 ILCS 46]. This rulemaking identifies the various types of background checks which must be made and the conditions under which they are to be made. Provisions for conditional employment, termination of employment, waiver eligibility, and the employee's or applicant's right to appeal the waiver decision are included.
 - 16) Information and questions regarding this adopted amendment shall be directed to:
 Judith Hollenberg
 Rules Administrator
 Department of Mental Health and Developmental Disabilities
 401 Stratton Building
 Springfield, IL 62765
 (217) 785-3313
 FAX: (217) 524-8920

The full text of the Adopted Amendment(s) begins on the next page:

DEPARTMENT OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER 1: DEPARTMENT OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES

PART 113

MINIMUM STANDARDS FOR LICENSURE OF
COMMUNITY RESIDENTIAL ALTERNATIVES

Section	
113.10	Definitions
113.15	Incorporation by reference
113.20	Application for license
113.30	Complaint procedures
113.40	Departmental inspections
113.45	Monitoring and evaluation
113.50	Administrative policies and practices
113.51	Application for waiver of the prohibition against employment
113.55	Accreditation
113.60	Personnel and staffing policies
113.70	Site, physical plant standards
113.80	Physical plant services
113.90	Food and nutrition services
113.100	Admission/discharge
113.110	Resident rights
113.120	Resident records
113.130	Resident living program
113.140	Unusual occurrences

AUTHORITY: Implementing the Community Residential Alternatives Licensing Act [210 ILCS 140] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104], Section 5 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/5] and Section 5 of the Community Residential Alternatives Licensing Act [210 ILCS 140/5].

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 7239, effective June 8, 1982, for a maximum of 150 days; emergency expired November 5, 1982; adopted at 7 Ill. Reg. 1054, effective January 19, 1983; amended at 17 Ill. Reg. 21387, effective November 29, 1993; amended at 21 Ill. Reg. 2200, effective February 1, 1997; amended at 21 Ill. Reg. ~~6076~~ **6078**, effective

DATE: 11-1-97

Section 113.51 Application for waiver of the prohibition against employment

- a) Hiring of direct care personnel
An agency shall not knowingly hire or retain any person after January

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AND DEVELOPMENTAL DISABILITIES

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1, 1997 in a full-time, part-time or contractual direct care position if that person has been convicted of committing or attempting to commit one or more of the following offenses unless the applicant or employee obtains a waiver pursuant to subsections (i) through (l) of this Section (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1 through 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1 through 9-3.3]);
- 2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7]);
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1 and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1 and 10-4]);
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7]);
- 5) Sexual assault or abuse (Sections 12-13, 12-14, 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-15 and 12-16]);
- 6) Predatory criminal sexual assault of a child (Section 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-14.1]);
- 7) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
- 8) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
- 9) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3]);
- 10) Criminal trespass (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4]);
- 11) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1]);
- 12) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.2]);
- 13) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]);
- 14) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

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b) Definitions

For the purposes of this Section, the following terms are defined:

"Applicant." A person seeking employment with an agency who has received a bona fide conditional offer of employment. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Conditional offer of employment." A bona fide offer of employment by an agency to an applicant, which is contingent on the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Direct care." The provision of nursing assistance with meals, dressing, movement, bathing, or other personal needs of maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Initiate." The obtaining of the authorization for a record check from a student, applicant, or employee. The agency shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Nurse Aide Registry." The registry of nurse aides kept by the Department of Public Health pursuant to Section 3-206.01 of the Nursing Home Care Act [210 ILCS 45/3-206.01].

"UCIA" The Uniform Conviction Information Act [20 ILCS 2635].

c) Nurse Aide Registry

For all applicants for nurse aide positions, the agency shall check the Nurse Aide Registry to determine the date of the applicant's last UCIA criminal history record check. If it has been more than one year since the records check, the agency must initiate or have initiated on its behalf a UCIA criminal history record check for the nurse aide. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])

d) Conditional offers

Effective January 1, 1996, if the agency makes a conditional offer of employment to an applicant other than a nurse aide who is not exempt

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under subsection (m) of this Section for a direct care position, the agency shall initiate or have initiated on its behalf a UCIA criminal history record check. (Section 30(c) of the Health Care Worker Background Check Act [225 ILCS 46/30(c)])

e) Initiation of UCIA criminal history record check

By January 1, 1997 the agency must initiate a UCIA criminal history record check for all direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt in accordance with subsection (m) of this Section. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30])

f) Request for UCIA criminal history record check

The agency shall request the UCIA criminal history record check in accordance with the requirements of the Department of State Police. (See 20 Ill. Adm. Code 1265.) The agency shall notify the applicant or employee of the following whenever a non-fingerprint UCIA Criminal History Record search is made. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30]):

1) That the agency shall request or have requested on its behalf a UCIA criminal history record check pursuant to the Health Care Worker Background Check Act;

2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report and request a waiver in accordance with subsection (j)(1) of this Section;

3) That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;

4) That the applicant or employee cannot work in a direct care position while a waiver request is pending;

5) That the applicant, if not hired conditionally, shall not be hired if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;

6) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)

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through (14) of this Section unless the record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (i)(1) of this Section.

- g) Conditional employment
The agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act [225 ILCS 46/30(g)])
- h) Request for fingerprint-based UCIA criminal records check
An applicant, employee, or nurse aide whose UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses enumerated in subsections (a)(1) through (14) of this Section may request that the agency commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265) within 30 days after receipt of the criminal records report to validate identity and clear one's record. (Section 35 of the Health Care Worker Background Check Act [225 ILCS 46/35])
- i) Eligibility for waiver
- 1) An applicant, employee, or nurse aide may request a waiver of the prohibition against employment. (Section 40 of the Health Care Worker Background Check Act [225 ILCS 46/40])
 - 2) The Department may grant a waiver based on any mitigating circumstances, which may include but not be limited to (Section 40(b) of the Health Care Worker Background Check Act [225 ILCS 46/40(b)]):
 - A) The applicant's, employee's or nurse aide's age at the time that the crime was committed;
 - B) The circumstances surrounding the crime;
 - C) The length of time since the conviction;
 - D) The applicant or employee's criminal history since the conviction;
 - E) The applicant or employee's work history;
 - F) The applicant or employee's current employment references;
 - G) The applicant or employee's character references;
 - H) Nurse Aide Registry records; and
 - I) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, recipients or clients.
- j) Application for waiver
- 1) If the applicant, employee or nurse aide wishes to request a waiver, the request shall be submitted within 5 calendar days after receipt of the criminal records report. A complete waiver

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request shall include the following:

- A) A statement specifying any mitigating circumstances (see subsection (i)(2) of this Section) the person believes are relevant to the employment in question; and
- B) Either:
 - i) Information necessary for the Department to obtain a fingerprint-based UCIA criminal records check, including a suitable set of fingerprints, in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265), the fee for such a check (which shall not exceed the actual cost of the check) and the findings of the required non fingerprint-based UCIA criminal records check conducted by the Department of State Police; or
 - ii) The report of the results of the fingerprint-based UCIA criminal records check done pursuant to subsection (h) of this Section.
- 2) Agency staff may assist the applicant, employee or nurse aide in completing the application.
- 3) The waiver request shall be submitted to:

Office of Accreditation and Licensure
Department of Mental Health and Developmental Disabilities
405 Stratton Building
Springfield IL 62765
- k) Waiver decision
 - 1) The waiver request shall be reviewed by a panel of Department staff. The Department shall return a decision to the applicant, employee, or nurse aide and the provider within 30 calendar days after receipt of the completed waiver request including receipt of a report from the State Police based on the fingerprint-based record check.
 - 2) The agency is not obligated to hire or offer permanent employment to an applicant or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act [225 ILCS 46/40(f)])
 - 3) The Department shall be immune from liability for any waivers granted. (Section 40(e) of the Health Care Worker Background Check Act [225 ILCS 46/40(e)])
- l) Appeal of the decision
 - 1) The applicant, employee, or nurse aide may request further review of his or her request for a waiver within 30 calendar days after the receipt of the Department's denial of the waiver.
 - 2) The applicant, employee, or nurse aide may submit additional documentation of the mitigating circumstances.
 - 3) The appeal shall be submitted to:

Office of the Director
Department of Mental Health and Developmental Disabilities

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401 Stratton Building
Springfield IL 62765

- 4) The Director shall act on the appeal within 30 calendar days after receipt of the appeal and shall issue a final decision granting or denying the waiver request.

m) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law;
or

- 2) An individual employed or retained by the agency as defined by Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15] for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act [225 ILCS 46/20])

- n) The agency shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for an individual employed as a nurse aide within 10 working days after receipt of the results. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])

- o) The agency shall retain on file for a period of five years records of criminal records requests for all employees. The files shall be subject to inspection by the Department's Office of Accreditation and Licensure. The agency shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. A fine of \$500 may be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act [225 ILCS 46/50])

(Source: Added at 21 Ill. Reg. 6078.1 effective MAY 1, 2004.)

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- 1) Heading of the Part: Standards and Licensure Requirements for Community-Integrated Living Arrangements

- 2) Code Citation: 59 Ill. Adm. Code 115

- 3) Section Numbers: Adopted Action:
115.321 New Section

- 4) Statutory Authority: Implementing the Health Care Worker Background Check Act [225 ILCS 46] and the Community-Integrated Living Arrangements Licensing and Certification Act [210 ILCS 135] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104], Section 5 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/5]

- 5) Effective Date of Adopted Rules: May 5, 1997

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these rules contain incorporations by reference? Yes. This rulemaking incorporates by reference rules of the Department of State Police located at 20 Ill. Adm. Code 1265.

- 8) Date filed in Agency's Principal Office: April 29, 1997

- 9) Notice(s) of Proposal Published in Illinois Register: 20 Ill. Reg. 16045 (December 27, 1996)

- 10) Has JCAR issued a Statement of Objections to these rules? No.

- 11) Differences(s) between proposal and final version: The Department made the following changes in response to recommendations from the Administrative Code Division: The Administrative Code did not recommend any changes.

The Department made the following changes in response to recommendations from the Joint Committee on Administrative Rules: All changes recommended by the Joint Committee on Administrative Rules during the first notice period were made.

The Department made the following changes in response to public comments: The Department received one public comment but it did not pertain specifically to this rulemaking.

The Department made the following technical changes: The source notes were revised to read "21 Ill. Reg.".

- 12) Have all the changes agreed upon by the agency and JCAR been made as

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indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace an emergency rule? No

14) Are there any amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
115.120	Amended	21 Ill. Reg. 1563
115.330	Amended	21 Ill. Reg. 1563
115.420	Amended	21 Ill. Reg. 1563

15) Summary and Purpose of Rules: Section 115.321 is being added to implement the waiver provisions of the Health Care Worker Background Check Act [225 ILCS 46]. After January 1, 1997, community agencies are prohibited from knowingly employing or retaining in full-time, part-time or contractual direct care positions any persons who have been convicted of committing or attempting to commit one or more of the offenses listed in Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25] unless the employee or applicant has obtained a waiver. This rulemaking identifies the various types of background checks which must be made and the conditions under which they are to be made. Provisions for conditional employment, termination of employment, waiver eligibility, and the employee's or applicant's right to appeal the waiver decision are included.

16) Information and questions regarding this adopted amendment shall be directed to:

Judith Hollenberg
Rules Administrator
Department of Mental Health and
Developmental Disabilities
401 Stratton Building
Springfield, IL 62765
(217) 785-3313
FAX: (217) 524-8920

The full text of the Adopted Amendment(s) begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF MENTAL HEALTH AND
DEVELOPMENTAL DISABILITIES

PART 115

STANDARDS AND LICENSE REQUIREMENTS FOR COMMUNITY-INTEGRATED LIVING ARRANGEMENTS

SUBPART A: GENERAL PROVISIONS

Section	Purpose
115.100	Incorporation by reference
115.110	Definitions
115.120	

SUBPART B: SERVICE REQUIREMENTS

Section	Description
115.200	Criteria for participation of individuals
115.210	Criteria for termination of individuals
115.215	Community support team
115.220	Interdisciplinary process
115.230	Medical services and medications
115.240	Individual rights and confidentiality
115.250	

SUBPART C: GENERAL AGENCY REQUIREMENTS

Section	Description
115.300	Environmental management of living arrangements
115.310	Geographic location of community-integrated living arrangements
115.320	Administrative requirements
115.321	Application for waiver of the prohibition against employment
115.325	Monitoring and evaluation
115.330	Accreditation

SUBPART D: LICENSE REQUIREMENTS

Section	Description
115.400	Applicability
115.410	Issuing a license and period of licensure
115.420	License application
115.430	Application acceptance and verification
115.440	Non-transferability of license
115.450	Cessation of operations
115.460	License revocation
115.470	Hearings

APPENDIX A

Specific Level of Functioning Assessment and Physical Health

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Inventory

AUTHORITY: Implementing the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135] and the Healthcare Worker Background Check Act [225 ILCS 467], and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Department of Mental Health and Developmental Disabilities Act [210 ILCS 1705/5].

SOURCE: Adopted at 14 Ill. Reg. 10865, effective July 1, 1990; emergency amendment at 14 Ill. Reg. 20550, effective December 5, 1990, for a maximum of 150 days; emergency expired May 18, 1991; amended at 15 Ill. Reg. 8560, effective May 24, 1991; emergency amendment at 16 Ill. Reg. 2676, effective February 1, 1992, for a maximum of 150 days; emergency expired on June 30, 1992; amended at 17 Ill. Reg. 21434, effective November 29, 1993; amended at 21 Ill. Reg. 2205, effective February 1, 1997; amended at 21 Ill. Reg. 6085, effective May 1, 1994.

SUBPART C: GENERAL AGENCY REQUIREMENTS

Section 115.321 Application for waiver of the prohibition against employment

a) Hiring of direct care personnel

An agency shall not knowingly hire or retain any person after January 1, 1997 in a full-time, part-time or contractual direct care position if that person has been convicted of committing or attempting to commit one or more of the following offenses unless the applicant or employee obtains a waiver pursuant to subsections (i) through (l) of this Section (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1 through 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1 through 9-3.3]);
- 2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7]);
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1 and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1 and 10-4]);
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7]);
- 5) Sexual assault or abuse (Sections 12-13, 12-14, 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-15 and

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12-16));

- 6) Predatory criminal sexual assault of a child (Section 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-14.1]);
- 7) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
- 8) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
- 9) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3]);
- 10) Criminal trespass (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4]);
- 11) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1]);
- 12) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.2]);
- 13) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]);
- 14) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) Definitions

For the purposes of this Section, the following terms are defined:

"Applicant." A person seeking employment with an agency who has received a bona fide conditional offer of employment. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Conditional offer of employment." A bona fide offer of employment by an agency to an applicant, which is contingent on the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15])

"Direct care." The provision of nursing assistance with meals, dressing, movement, bathing, or other personal needs of maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or

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who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15]).

"Initiate." The obtaining of the authorization for a record check from a student, applicant, or employee. The provider shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15]).

"Nurse Aide Registry." The registry of nurse aides kept by the Department of Public Health pursuant to Section 3-206.01 of the Nursing Home Care Act [210 ILCS 45/3-206.01].

"UCIA" The Uniform Conviction Information Act [20 ILCS 2635].

c) Nurse Aide Registry

For all applicants for nurse aide positions, the agency shall check the Nurse Aide Registry to determine the date of the applicant's last UCIA criminal history record check. If it has been more than one year since the records check, the agency must initiate or have initiated on its behalf a UCIA criminal history record check for the nurse aide. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)].

d) Conditional offers

Effective January 1, 1996, if the agency makes a conditional offer of employment to an applicant other than a nurse aide who is not exempt under subsection (m) of this Section for a direct care position, the provider shall initiate or have initiated on its behalf a UCIA criminal history record check. (Section 30(c) of the Health Care Worker Background Check Act [225 ILCS 46/30(c)].

e) Initiation of UCIA criminal history record check

By January 1, 1997 the agency must initiate a UCIA criminal history record check for all direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt in accordance with subsection (m) of this Section. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30]).

f) Request for UCIA criminal history record check

The agency shall request the UCIA criminal history record check in accordance with the requirements of the Department of State Police. (See 20 Ill. Adm. Code 1265.) The agency shall notify the applicant or employee of the following whenever a non-fingerprint UCIA Criminal History Record search is made. (Section 30 of the Health Care Worker Background Check Act [225 ILCS 46/30]):

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1) That the agency shall request or have requested on its behalf a UCIA criminal history record check pursuant to the Health Care Worker Background Check Act;

2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report and request a waiver in accordance with subsection (j)(1) of this Section;

3) That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;

4) That the applicant or employee cannot work in a direct care position while a waiver request is pending;

5) That the applicant, if not hired conditionally, shall not be hired if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the applicant's record is cleared based on a fingerprint-based record check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section;

6) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (14) of this Section unless the record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsection (j)(1) of this Section.

g) Conditional employment

The agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(q) of the Health Care Worker Background Check Act [225 ILCS 46/30(q)].

h) Request for fingerprint-based UCIA criminal records check

An applicant, employee, or nurse aide whose UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses enumerated in subsections (a)(1) through (14) of this Section may request that the agency commence a fingerprint-based UCIA criminal records check by submitting information in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265) within 30 days after receipt of the criminal records report to validate identity and clear one's

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record. (Section 35 of the Health Care Worker Background Check Act [225 ILCS 46/35])

i) Eligibility for waiver

- 1) An applicant, employee, or nurse aide may request a waiver of the prohibition against employment. (Section 40 of the Health Care Worker Background Check Act [225 ILCS 46/40])
- 2) The Department may grant a waiver based on any mitigating circumstances, which may include but not be limited to:
 - A) The applicant's, employee's or nurse aide's age at the time that the crime was committed;
 - B) The circumstances surrounding the crime;
 - C) The length of time since the conviction;
 - D) The applicant or employee's criminal history since the conviction;
 - E) The applicant or employee's work history;
 - F) The applicant or employee's current employment references;
 - G) The applicant or employee's character references;
 - H) Nurse Aide Registry records; and
 - I) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, recipients or clients. (Section 40(b) of the Health Care Worker Background Check Act [225 ILCS 46/40(b)])

j) Application for waiver

- 1) If the applicant, employee or nurse aide wishes to request a waiver, the request shall be submitted within 5 calendar days after receipt of the criminal records report. A complete waiver request shall include the following:

- A) A statement specifying any mitigating circumstances (see subsection (i)(2) of this Section) the person believes are relevant to the employment in question; and
- B) Either:

- i) Information necessary for the Department to obtain a fingerprint-based UCIA criminal records check, including a suitable set of fingerprints, in a form and manner prescribed by the Department of State Police (see 20 Ill. Adm. Code 1265), the fee for such a check (which shall not exceed the actual cost of the check) and the findings of the required non fingerprint-based UCIA criminal records check conducted by the Department of State Police; or
 - ii) The report of the results of the fingerprint-based UCIA criminal records check done pursuant to subsection (h) of this Section.
- 2) Agency staff may assist the applicant, employee or nurse aide in completing the application.

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- 3) The waiver request shall be submitted to:
Office of Accreditation and Licensure
Department of Mental Health and Developmental Disabilities
405 Stratton Building
Springfield IL 62765

k) Waiver decision

- 1) The waiver request shall be reviewed by a panel of Department staff. The Department shall return a decision to the applicant, employee, or nurse aide and the provider within 30 calendar days after receipt of the completed waiver request including receipt of a report from the State Police based on the fingerprint-based record check.
 - 2) The agency is not obligated to hire or offer permanent employment to an applicant or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act [225 ILCS 46/40(f)])
 - 3) The Department shall be immune from liability for any waivers granted. (Section 40(e) of the Health Care Worker Background Check Act [225 ILCS 46/40(e)])
- Appeal of the decision
- 1) The applicant, employee, or nurse aide may request further review of his or her request for a waiver within 30 calendar days after the receipt of the Department's denial of the waiver.
 - 2) The applicant, employee, or nurse aide may submit additional documentation of the mitigating circumstances.
 - 3) The appeal shall be submitted to:
Office of the Director
Department of Mental Health and Developmental Disabilities
401 Stratton Building
Springfield IL 62765
 - 4) The Director shall act on the appeal within 30 calendar days after receipt of the appeal and shall issue a final decision granting or denying the waiver request.
- This Section shall not apply to:
- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or
 - 2) An individual employed or retained by the agency as defined by Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15] for whom a criminal background check is required by another law of this State. (Section 20 of the Health Care Worker Background Check Act [225 ILCS 46/20]);
- The agency shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for an individual employed as a nurse aide within 10 working days after receipt of the results. (Section 30(b) of the Health Care Worker Background Check Act [225 ILCS 46/30(b)])

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o) The agency shall retain on file for a period of five years records of criminal records requests for all employees. The files shall be subject to inspection by the Department's Office of Accreditation and Licensure. The agency shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. A fine of \$500 may be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act [225 ILCS 46/50])

(Source: Added at 21 Ill. Reg. 6085, effective 4/1/94)

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3) Section Number: Adopted Action:
1600.80 Amend
Appendix A Repeal
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) Effective Date of Amendment: May 2, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date filed in agency's principal office: May 2, 1997
- 9) Notice of Proposal Published in Illinois Register: September 27, 1996, 20 Ill. Reg. 12761
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Difference between proposal and final version:
1. In lines 107, 165, capitalize "officer".
2. In lines 165 and 167, delete the numerals in parentheses and the semicolon.
3. In lines 198, 213, 223, 225, change "Claim" to "claim".
4. In line 236, add before the period "[735 ILCS 5/Art. III]".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This Section currently sets forth the rules of practice for administrative hearings before the Claims Committee of the State Universities Retirement System. The proposed new Section will clarify the procedure to be used in administrative hearings and to simplify the hearing process. The new rule will eliminate duplicate hearings before the Claims Committee, will remove the Executive Director from participation in claims at the staff level, and will, in general, simplify the hearing procedure.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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Judith A. Parker
Deputy Director
State Universities Retirement System
P.O. Box 2710
Champaign, IL 61825-2710
(217) 378-8800

The full text of the Adopted Amendment begins on the next page:

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEM

PART 1600
UNIVERSITIES RETIREMENT

Section	Definitions
1600.10	Dependency of Beneficiaries
1600.20	Crediting Interest on Employee Contributions and Other Reserves
1600.30	Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.40	Election to Pay Contributions Based Upon Employment Which Preceded Certification as a Participant
1600.50	Procedures to be followed in Medical Evaluation of Disability Claims
1600.70	Rules of Practice-Nature and Requirements of Formal Hearings
1600.80	Chart Outlining Hearing Procedures (Repealed)
APPENDIX A	

AUTHORITY: Implementing and authorized by 40 ILCS 5/15-177.

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; amended at 21 Ill. Reg. 6493, effective MAY 2, 1991.

Section 1600.80 Rules of Practice-Nature and Requirements of Formal Hearings

a) Proceedings

1) Administrative Determination.

The administrative staff of the System shall be responsible for the daily claims-processing function of the System, including processing of all claims for benefits or service credit or any other claims against or relating to the System.

2) Review by Associate Executive Director.

Any participant, annuitant, or beneficiary adversely affected by the disposition of a claim by the administrative staff may file a written request for review by the Associate Executive Director of the System. A request for review by the Associate Executive Director must be submitted within 30 days after the decision from which review is sought. The Associate Executive Director's review will be based upon all materials contained in the file, as well as any additional materials the staff or the claimant wish to submit pertaining to the claim.

3) Hearing.

A) Petition. Any participant, annuitant, or beneficiary

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adversely affected by the disposition of a claim by the Associate Executive Director may petition for a Hearing before the Claims Committee. A petition for a Hearing must be submitted to the Executive Director within 30 days after the decision from which review is sought.

B) Statement of Claim. Upon filing a petition for a Hearing, the claimant shall be informed that he or she is required to file a Statement of Claim, which shall include: the petitioner's name, social security number, and address; the name and address of the petitioner's authorized representative, if any; a statement of the facts forming the basis for the appeal, which may include any new or additional evidence; any documents or other materials the petitioner wishes to be considered in conjunction with the appeal; and an explanation of the relief sought.

C) Notification. Upon scheduling of a Hearing before the Claims Committee, a petitioner shall be provided with written notice of: the date, time and place of the Hearing; the subject matter of the Hearing; and relevant procedural and substantive statutory and regulatory provisions. Notice of the Hearing shall also inform the petitioner that he or she will be afforded the opportunity to provide a statement of his or her position, present oral or documentary evidence, and conduct such examination and cross-examination of witnesses as is necessary for full and true disclosure of the facts. Notice shall be given to the petitioner that he or she is required to provide written confirmation, at least three days prior to the scheduled date of the Hearing, of his or her intent to appear at the Hearing. The petitioner is not required to appear at the Hearing. In the absence of the petitioner, the Claims Committee will consider the petitioner's Statement of Claim and such other matters as may be properly brought before it at the Hearing.

D) Upon the decision of the Associate Executive Director, a pre-hearing conference may be scheduled for the purpose of simplification or definition of issues or procedures at the Hearing.

E) Representation. The petitioner, the System or any interested party may be represented by counsel or a designated spokesperson at the Hearing.

F) Conduct of the Hearing.

- i) Claims Committee. The Hearing shall be conducted by the Claims Committee. The Claims Committee shall be composed of the Executive Director of the System (the agency head) and two additional members chosen by the Board of Trustees, one of whom shall be a Board member. The final member of the Claims Committee may

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be selected from the membership of the Board of Trustees, participants in the System or attorneys licensed to practice law in the State of Illinois. At a minimum, the members of the Claims Committee shall have a general familiarity with the provisions of the Illinois Pension Code, the rules, regulations, and policies of the System and the rules of evidence as applied in civil cases.

- ii) Procedures. The Claims Committee shall choose one of its members to act as Presiding Officer over the Hearing. The Presiding Officer shall conduct a full and fair Hearing, receive testimony and documentary evidence, avoid delay, maintain order and make a sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, the Presiding Officer shall make all procedural and evidentiary rulings necessary for the conduct of the Hearing. As a general matter, the rules of evidence as applied in civil cases in the circuit courts of the State of Illinois shall be followed; however, evidence inadmissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Any part of the evidence may be received in written form, provided that the interests of the parties will not be prejudiced. Notice may be taken of generally recognized technical facts within the agency's specialized knowledge and the agency's experience, technical competence and specialized knowledge may be used in evaluation of the evidence. Members of the Claims Committee may ask questions necessary for better understanding of the facts or law. The Hearing shall be open to the public unless the Presiding Officer, for good cause shown, shall determine otherwise.

- iii) Record of Proceedings. A record of proceedings shall be kept which shall be in the form of a non-verbatim "bystander's report" and either a stenographic transcription or a tape recording. The Petitioner may obtain a stenographic transcription or a tape recording of the Hearing by making a timely request and paying the actual cost entailed.

- iv) Disqualifications; Ex Parte Communications. Any member of the Claims Committee may be disqualified to preside at the Hearing on grounds of bias or conflict of interest. A motion to disqualify a Claims Committee member for bias or conflict of interest should be made to the Committee

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by any party to the Hearing at least three days prior to the commencement of the Hearing, with a copy of the motion to be simultaneously submitted to the opposing party, or that party's attorney of record. The motion shall be heard, considered and ruled upon by the Claims Committee at or prior to the commencement of the Hearing. The movant shall have the burden of proof with respect to the motion to disqualify. Either an adverse ruling or the fact that a Committee member is a full-time employee of the System, standing alone, shall not constitute bias or conflict of interest. In the event that any member of the Claims Committee is disqualified or is otherwise unable to serve on the Committee, at the discretion of the Presiding Officer, either the hearing may proceed so long as at least two members of the Claims Committee are able to serve or the president of the Board of Trustees shall designate a temporary replacement.

Ex Parte Communications Prohibited. Except in the disposition of matters that the System is authorized by law to entertain or dispose of on an ex parte basis, the Executive Director and members of the Claims Committee shall not, after receiving notice of a Hearing in a contested matter, communicate, directly or indirectly, in connection with any issue of fact, with any party or in connection with any other issue with any party or the representative of any party, except upon notice and opportunity for all parties to participate. An ex parte communication received by the Executive Director or any Claims Committee member shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications.

Recommendations and Decisions.

Claims Committee Recommendation. Upon conclusion of all evidence and arguments, the Claims Committee shall privately deliberate and make a recommendation as to the disposition of the claim based on the evidence of record. The Claims Committee shall make one of the following recommendations: affirmance of the

v)

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administrative action, reversal of the administrative action, or remandment of the case to the administrative staff for further consideration. The recommendation of the Claims Committee shall be made to the Executive Committee of the Board of Trustees. The recommended decision of the Claims Committee is a non-final decision, subject to the ultimate decision of the Executive Committee of the Board of Trustees.

Executive Committee Decision. The Executive Committee of the Board of Trustees shall make a decision on the claim following receipt of a recommended decision from the Claims Committee. The record of proceedings shall be completed upon conclusion of the Hearing of the Claims Committee. No additional arguments or evidence may be presented to the Executive Committee by the petitioner or by the administrative staff of the System. The Executive Committee shall consider the recommendation of the Claims Committee in making a decision for the System as to the disposition of the claim. The Executive Committee shall render one of the following decisions with respect to the claim: affirmance of the administrative action, reversal of the administrative action, or remandment of the case to the administrative staff for further consideration. Remandment of the case to the administrative staff shall not be considered a final decision of the Executive Committee. A decision by the Executive Committee either reversing or affirming the decision of the administrative staff shall constitute a final decision for the purpose of review under the Administrative Review Law [735 ILCS 5/Art. III].

A final decision of the Executive Committee shall be in writing or stated in the record. A final decision of the Executive Committee shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. All decisions of the Executive Committee shall specify whether they are final and subject to the Administrative Review Law. Parties or their agents shall be notified either personally or by registered or certified mail of any decision of the Executive Committee. Upon request, a copy of the decision shall be delivered or mailed to each party and to his or her attorney of record.

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- a) The Executive Director shall review all applications for benefits and the record and evidence submitted on behalf of the applicant. If he is satisfied that the applicant meets the requirements of the Illinois Pension Code to qualify for the benefit for which he has applied, he shall recommend to the Executive Committee that the benefit be approved. If the Executive Committee approves the application and the amount of the benefit payment, the Executive Director shall pay the benefit to the applicant. If the Executive Committee disapproves the application or the amount of the benefit, the claim shall be referred to the Claims Committee for further consideration.
- b) If the Executive Director is of the opinion that the applicant has not met the requirements of the Illinois Pension Code to qualify for the benefit for which he has applied or if he is uncertain that such requirements have been satisfied, he shall submit the claim to the Claims Committee for further consideration.
- c) The Claims Committee shall review all claims submitted to it by the Executive Director. The Executive Committee of the Board of Trustees and shall make a recommendation for the initial disposition of the claim to the Executive Director. An applicant may have the initial disposition of a claim reconsidered by the Claims Committee by filing a petition for Written Appeal with the Executive Director.
- d) If the Claims Committee is of the opinion that the applicant has met the statutory requirements for receipt of the benefit for which he has applied, it shall recommend to the Executive Committee that the claim be approved. If the Executive Committee approves the claim, the Executive Director shall pay the benefit to the applicant. If the Executive Committee disapproves the claim, it shall remand the case to the Claims Committee for further consideration.
- e) If the Claims Committee is of the opinion that the applicant has not met the statutory requirements to qualify for the benefit, the Executive Director shall notify the applicant that his claim has been disapproved by the Claims Committee. The applicant has a right to file a written appeal under paragraph (f) of this Section.
- f) An applicant may file a petition for Written Appeal with the Executive Director of the System at its Champaign Office within 35 days following the date that the applicant receives the notice that his claim has been disapproved by the Claims Committee.
- g) A petition for a Written Appeal shall set forth the name and address of the petitioner, the name and address of his authorized representative, if applicable, and a brief statement of the facts forming the basis of such written appeal, which must include any new or additional evidence and the relief sought by the petitioner. The Claims Committee shall consider Written Appeals at the next regular meeting of the Committee or as soon thereafter as is practical. The Claims Committee may call upon the petitioner or his authorized representative at any time for further material or relevant evidence upon any issue. Continuances and extensions of time may be granted by the Claims Committee upon good cause shown. Examples of good cause

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- are illness of the petitioner, attendance of legal counsel required elsewhere, military service or inability to contact the petitioner. Following the Written Appeal and the receipt of all supplemental material requested, the recommendation of the Claims Committee, the findings of fact and the conclusions shall be submitted in writing to the petitioner and his authorized representative, if applicable, and to the Executive Director.
- h) If, following the Written Appeal, the Claims Committee recommends to the Executive Director that the claim be disapproved, the applicant may file a petition for a Hearing by the Claims Committee. This petition shall be filed with the Executive Director of the System at its Champaign Office within 35 days following the date the applicant receives the notice that the Claims Committee has denied the Written Appeal and is recommending that the claim be disapproved.
- i) A petition for Hearing before the Claims Committee may be informal and shall be presented by letter or other writing. The petition shall set forth the name and address of the petitioner, the name and address of the authorized representative, if applicable, and a brief statement of the facts forming the basis of such petition, which must include any new or additional evidence and the relief sought. Any petitioner or authorized representative, if applicable, may appear at a Hearing before the Claims Committee.
- j) If the applicant files a petition for Hearing before the Claims Committee within the period provided by paragraph (i) of this Section, the Executive Director shall send to the applicant a written notice which states the time, place, nature of the hearing and the legal authority and jurisdiction under which the hearing is to be held, and a copy thereof shall be filed with each member of the Claims Committee.
- k) The presiding officer at the hearing before the Claims Committee shall be that member of the Claims Committee who is chosen by that Committee to act as Hearing Examiner. The presiding officer shall conduct a full and fair hearing, avoid delay, maintain order, and make sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer shall make all procedural and evidentiary rulings necessary for the conduct of the hearing. The hearing shall be open to the public unless the presiding officer, for good cause shown, shall determine otherwise. An example of good cause would be the reluctance of the petitioner to have his medical history revealed at a public hearing.
- l) The applicant and the Executive Director or another member of the Claims Committee are entitled to present their case at the hearing by oral or documentary evidence, to submit rebuttal evidence, and to conduct such examination and cross examination as may be required for a full and true disclosure of the facts bearing on the issues. If the applicant requests the Hearing Officer to hold a prehearing conference in order to clarify the issues, such conference shall be held. The issues shall be those stated in the notice required by paragraph (j)

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- of this Section, those stipulated in a pre-hearing conference or those agreed by the parties.
- m) The applicant shall give written confirmation to the Executive Director of his intention to appear at the hearing at least three days before the hearing is scheduled to convene. Failure to do so at the discretion of the Presiding Officer may be deemed a waiver of the right to a hearing. However, if good cause shown, the Hearing Officer will not deem such failure a waiver. Good cause shall include illness, failure of the notice to reach the party in time, military service or other such instance.
- n) Technical rules of evidence shall not apply to hearings conducted pursuant to this rule, but the Presiding Officer shall apply rules designed to assure production of relevant evidence and to subject testimony to such examination and cross-examination as may be required for a full and true disclosure of the facts. The Presiding Officer may exclude irrelevant, immaterial or unduly repetitious evidence. A transcript may be made of the oral evidence and shall be made available to the applicant upon payment of the cost as determined by the Executive Director. All documents and other evidence submitted shall be open to examination by the parties, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A bystander's record of all hearings shall be prepared by the Claims Committee and shall include the substantive matters of the hearing, but shall not purport to be a verbatim transcript of the proceedings. This record shall be made available to the Petitioner or his authorized representative if requested. The Presiding Officer shall determine whether a verbatim transcript is to be made of the oral evidence or if a bystander's record of the hearing is to be prepared in lieu of a verbatim transcript. Minutes of every meeting of the Claims Committee and a record of all written Appeals and Hearings before the Claims Committee shall be kept by the Executive Director of the System at its Champaign Office.
- o) If the Presiding Officer determines that the interest of justice would be served, the Officer may authorize the taking of depositions provided that all parties are afforded an opportunity to participate in the taking of the depositions. The party who requested the depositions shall arrange for a transcript to be made of the proceedings and, upon request and at his expense, shall furnish all other parties with copies of the transcript.
- p) Official notice may be taken of a public document or part thereof such as a statute, official report, decision or opinion, and such document or data may be entered on the report without further proof of authenticity. If the decision of the Presiding Officer rests on an official notice of a material fact not appearing in evidence, a party shall, on timely request, be afforded an opportunity to show the contrary. Whenever possible, documents and exhibits shall be introduced by stipulation of the parties. Originals of documents shall be introduced into evidence with leave of the Hearing Examiner

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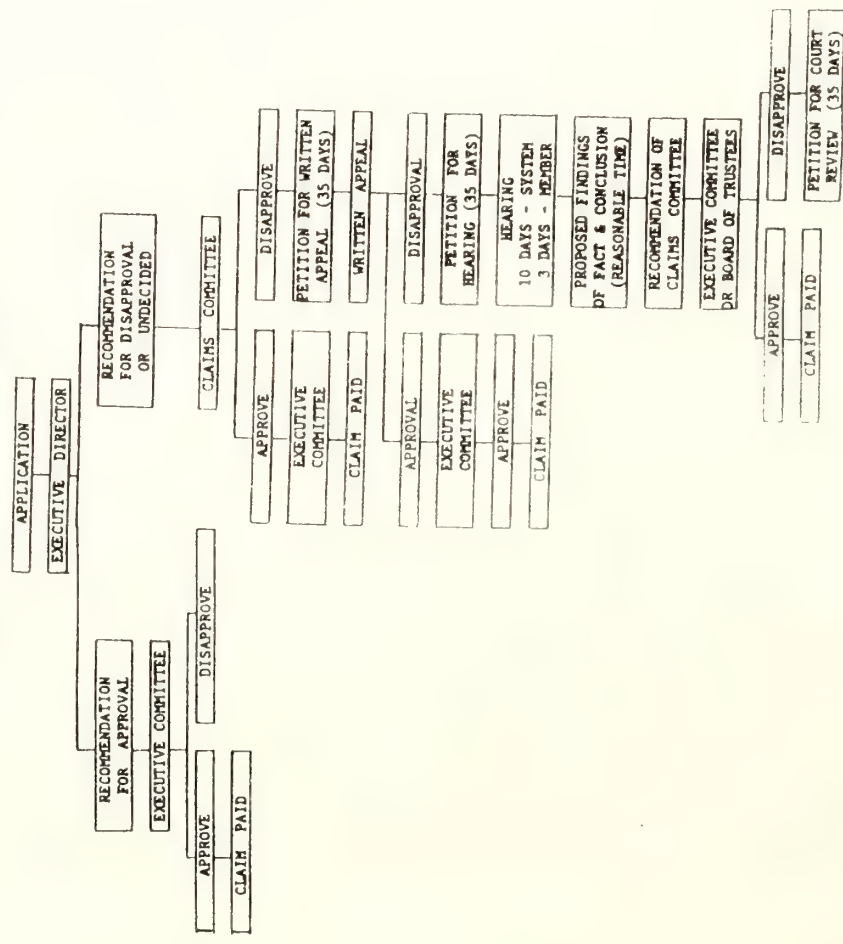
- to substitute copies for the originals. Whenever possible, the parties shall interchange copies of exhibits or other pertinent material before the hearing at which they are to be offered.
- q) Each decision of a Presiding Officer shall set forth the findings of fact and conclusions and shall state whether the Officer has accepted or rejected each proposed finding of fact and conclusion submitted by the parties. Findings of fact shall be based only upon evidence submitted to the Presiding Officer and matters of which official notice has been taken. The decision shall also specify the requirement or requirements which the applicant has failed to meet.
- r) Within 35 days after the hearing before the Claims Committee has concluded, the committee shall submit its recommendations to the Executive Committee or the Board of Trustees together with the findings of fact and conclusions. If the Executive Committee or the Board of Trustees disapproves the claim, the Executive Director shall notify the applicant that his claim has been disapproved, and that the disapproval is a final decision of the Board of Trustees, which is subject to review under the Administrative Review Law, Ill. Rev. Stat. 1991, ch. 110, par. 3-101 et seq. A copy of the findings of fact and conclusions shall be submitted to the applicant with this notice.
- s) Recommendations of the Claims Committee shall not be considered final decisions of the Board of Trustees. The Board of Trustees or the Executive Committee, which under the by laws is authorized to act on behalf of the Board of Trustees, shall make the final decision regarding disapproval of a claim. However, no final decision regarding disapproval of a claim shall be taken by the Board of Trustees or the Executive Committee before the Claims Committee has considered the petition for written Appeal authorized under paragraph (f) and provided the applicant with an opportunity for a hearing as authorized under paragraph (h) unless the applicant fails to meet the conditions for written Appeal or hearing set forth in paragraphs (f) through (h) and (h) of this Section. If the applicant fails to meet any of these conditions, the Claims Committee shall recommend to the Executive Committee or the Board of Trustees that the claim be disapproved.
- t) The rules of practice and procedures set forth in paragraphs (a) through (g) of this Section shall also be applicable to disputes covering the granting of service and earnings credits, payments by the participants for additional service and earnings credits, method of calculation of benefits and other matters arising under the provisions of the Illinois Pension Code.

(Source: Amended at 21 Ill. Reg. 6095, effective MAY 1995)

STATE UNIVERSITIES RETIREMENT SYSTEM
NOTICE OF ADOPTED AMENDMENT(S)
NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

Section 1600.APPENDIX A Chart Outlining Hearing Procedures (Repealed)

CHART OUTLINING HEARING PROCEDURES



(Source: Repealed at 21 Ill. Reg. 6095, effective MAY 2 1997)

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENTS

NOTICE PURSUANT TO 415 ILCS 5/7.2(b)

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/212.4(a)] requires the Board to adopt regulations that are "identical in substance" to USEPA RCRA Subtitle C rules adopted pursuant to Sections 3001 through 3005 of the Resources Conservation and Recovery Act of 1976 [42 U.S.C. Sections 6921-6925]. These rules are contained in 35 Ill. Adm. Code 702, 703, 705, 720 through 726, 728, 733 (soon to be added), and 739.

On October 17, 1996, the Pollution Control Board adopted an order that consolidated reserved RCRA Subtitle C hazardous waste update docket numbers R96-10 and R97-5 (and underground injection control update docket R97-3) for joint consideration. That order further set forth reasons for delay in the RCRA Subtitle C update dockets R96-10 and R97-5. In a segment of that order the Board entered the following pursuant to 415 ILCS 5/7.2(b):

REASONS FOR DELAY

Section 22.4(a) provides for quick adoption of regulations that are "identical in substance" to federal regulations adopted by USEPA to implement Sections 3001 through 3005 through 3005 of the Resource Conservation and Recovery Act of 1996 (RCRA Subtitle C, 42 U.S.C. Sections 6921-6925). Section 7.2(a) of the Act requires the Board to Complete its identical-in-substance rulemaking actions within one year after the date of the USEPA action on which they are based. Section 7.2(b) allows the Board to extend the deadlines for adoption by publication of a notice of reason for delay in the Illinois Register. The Board hereby sets forth the reasons for delay for the purposes of such an extension with regard to the RCRA Subtitle C amendments of dockets R96-10 and R97-5.

On October 17, 1996, the Board adopted an order in this matter that set forth the reasons for delay. It set forth those reasons as follows:

Due to the present and recent-past demands on Board resources and personnel, including those associated with completing the two prior updates, R95-4/R95-6 and R95-20, the Board had been unable to commence the amendments in dockets R96-10 and R97-5 in such a way that it has been able to complete rulemaking activities within one year. The amendments involved in dockets R95-4/R95-6 and R95-20 represented significant efforts on the part of the Board, given the multitude of the amendments and competing priorities for the Board and its staff. Those amendments, the magnitude of the amendments involved in consolidated dockets R96-10/R97-3/R97-5, and other competing priorities have resulted in unavoidable delay.

The Board now finds it necessary to set forth reasons for delay one more time in this matter. In addition to the reasons for previous delay, the Board has encountered others. Principally, these deal with the format in which federal amendments are submitted to the public. The federal Government Printing Office, which prints the *Federal Register* and the *Code of Federal Regulations*, does into require federal agencies to highlight the exact text of their amendment, as is required in Illinois by the Secretary of State for publication in the *Illinois Register*. Rather than omit unaffected segments of text from certain sections under amendment, USEPA simply printed the entire text of the massive tables to 40 CFR 268.40 and 268.48 and nearly the entire revised text of 40 CFR 264, subpart CC and 265, subpart CC that it had amended. As a result, the Board must compare the text of the federal amendments with the prior version on a line-by-line basis, which has proven much more time-consuming than originally estimated.

At present, the Board anticipates assembling a proposal for public comment for consideration at one of our regularly-scheduled meeting between mid-June and July. Allowing adequate time for publication of Notice of Proposed Amendments in the *Illinois Register*, for Board adoption at a regularly-scheduled meeting following the public comment period, and a 30-day moratorium on filing to allow USEPA comment on the adopted rules, the Board presently anticipates filing adopted amendments with the Secretary of State before October 15, 1997.

The Board will cause a copy of the above segment of this proposed opinion to be published in the *Illinois Register*, as required by Section 7.2(b) of the Act.

Direct questions about this Notice of Public Information or about this rulemaking proceeding to Michael J. McCambridge, at 312-814-6924 (Internet: mcambr@pcb016r1.state.il.us). Mailing address: Pollution Control Board, 100 West Randolph Street 11-500, Chicago, Illinois 60601. Please refer to docket numbers R96-10 and R97-5.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 1996. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Addition Modifications
Bond Premium Amortization
Dividends
Interest
Net Operating Loss
Zero Coupon Bonds
Other Rulings (Not Included Above)
Administrative Review
Allocation
(For Alternative Apportionment Rulings, See That Heading)
Alternative Apportionment
Amnesty
Apportionment
Financial Organizations
Insurance Companies
Payroll Factor

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Property Factor
 Sales Factor
 Transportation Services
 Other Rulings (Not Included Above)
 Assessment
 Bankruptcy
 Base Income
 (Also See Addition Modifications, Fringe Benefits, Subtraction Modifications)
 Books and Records
 Bulk Sales: See Sales Outside the Ordinary Course of Business (Bulk Sales)
 Business Income
 Capital Gains (Losses)
 (Also See Subtraction Modifications - Valuation Limitation)
 Check Off Funds
 Circuit Breaker
 Claims for Refund: See Refunds
 Collection
 Combined Unitary Return
 (Also See Unitary)
 Commercial Domicile
 Compensation
 Composite Returns
 Confidentiality
 Credits
 Coal Research and Utilization
 Credit for Replacement Tax Paid
 Credit for Residential Real Property Taxes
 Enterprise Zone Investment
 Foreign Tax
 High Impact Business Investment
 Jobs Tax
 Replacement Tax Investment
 Research and Development
 Training Expense
 Other Rulings (Not Included Above)
 Deficiencies
 Definitions
 Domestic International Sales Corporations (DISC's)
 Elections: See Combined Unitary Return, Extensions, Unitary Enterprise Zones
 (Also See Credits, Subtraction Modifications)
 Erroneous Refund: See Refunds
 Estates
 Estimated Tax
 Exempt Organizations
 Extensions

DEPARTMENT OF REVENUE

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Failure to File: See Penalties
 Failure to Pay: See Penalties
 (Also See Base Income, Capital Gains (Losses), Combined Unitary)
 Farmers: See Estimated Tax
 Federal Returns
 Fiduciaries
 Financial Organizations: See Apportionment
 Foreclosure
 Foreign Sales Corporations (FSC's)
 Foreign Tax: See Credits
 Foreign Trade Zones: See Subtraction Modifications, Credits--Jobs Tax Forms
 Fraud: See Penalties
 Fringe Benefits
 IRC Sec. 125 "Cafeteria" Plans
 IRC Sec. 401(k) Plans
 Other Rulings (Not Included Above)
 Gain (Loss): See Capital Gains (Losses), Valuation Limitation
 Information Reports
 Insurance Companies: See Apportionment
 Interest Income
 (Also See Addition Modifications, Subtraction Modifications)
 Interest on Refunds and Deficiencies
 IRC Sec. 338
 Jeopardy: See Assessment
 Judicial Review
 Liens
 Limited Liability Companies
 Lottery
 Medical Care Savings Accounts
 Military
 (Also See Subtraction Modifications)
 Miscellaneous
 Modification Addition: See Addition Modifications
 Modification Subtraction: See Subtraction Modifications
 Mutual Funds: See Subtraction Modifications
 Net Income (Loss) and Net Loss Deduction (IITA Sec. 207)
 (Also See Base Income, Capital Gains (Losses), Combined Unitary Return, Net Operating Loss and Net Operating Loss Deduction, Unitary)
 Net Operating Loss and Net Operating Loss Deduction
 Nexus: See Public Law 86-272/Nexus
 Nonbusiness Income
 Nonresidents: See Residency/Nonresidency
 Notice and Demand: See Notices
 Notices
 Nuclear Decommissioning Trusts
 Overpayments: See Refunds (Also See Estimated Tax)

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Partnerships
 Payments
 Payroll Factor: See Apportionment
 Penalties
 Failure to File (IITA Sec. 1001)
 Failure to File Withholding Returns (IITA Sec. 1004)
 Failure to Pay (IITA Sec. 1002)
 Failure to Pay Estimated Tax (IITA Sec. 804)
 Fraud (IITA Sec. 1002)
 Reasonable Cause (IITA Sec. 1001)
 Underpayment of Tax (IITA Sec. 1005)
 Other Rulings (Not Included Above)
 Pensions
 (Also See Subtraction Modifications)
 Political Organizations
 Professional Athletes
 Property Factor: See Apportionment
 Property Tax: See Subtraction Modifications
 Protest
 Public Law 86-272/Nexus
 Rate of Tax
 Real Estate Investment Trusts
 Reasonable Cause: See Penalties
 Refunds (Also See Subtraction Modifications)
 Statute of Limitations
 Other Rulings (Not Included Above)
 Regulated Investment Companies
 Replacement Tax
 (Also See Credits)
 Requirements of Requests for General Information Letters
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 Residency/Nonresidency
 Returns (For Combined Unitary Return and Composite Return Rulings See Those Headings)
 Amended Returns
 Due Dates
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 Short Period Returns
 Other Rulings (Not Included Above)
 S Corporations
 Sales Factor: See Apportionment
 Sales Outside the Ordinary Course of Business (Bulk Sales)
 Seizure
 Separate Accounting: See Alternative Apportionment
 Signature
 Specific Accounting
 Statute of Limitations: See Assessment, Collection, Deficiencies, Refunds

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Subchapter 'S' Corporations: See S Corporations
 Subpart F Income: See Subtraction Modifications
 Subtraction Modifications
 Bond Premium Amortization
 Enterprise and Foreign Trade Zones
 Health Insurance Premiums Paid by the Self-Employed
 Illinois Tax Refund
 Interest on U.S. Government Obligations
 Military
 Money Market Mutual Funds
 Pensions
 Qualified Pension Plans
 Real Estate Taxes
 Subpart F Income
 Transportation Services
 Valuation Limitation
 Other Rulings (Not Included Above)
 Taxability in Other States
 Taxable Year
 Transferees (Also See Sales Outside the Ordinary Course of Business (Bulk Sales))
 Transportation Services: See Apportionment
 Trusts
 Uniform Penalty and Interest Act
 Unitary (Also - See Combined Unitary Return)
 U.S. Government Obligations: See Subtraction Modifications
 Valuation Limitation: See Subtraction Modification
 Voluntary Disclosure Agreements
 Waiver on Assessments: See Assessment
 Withholding
 Employee Benefits
 Exemptions
 Personal Services Contracts (IITA Sec. 1405.2)
 Reciprocal Agreements
 Other Rulings (Not Included Above)
 Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one.
 The indexes of Income Tax letter rulings for 1990 through 1996 are available for \$3.00 each. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.
 3. Name and address of person to contact concerning this information:
 Margaret Forth
 101 West Jefferson Street
 Springfield, Illinois 62794
 Legal Services Office

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Telephone: (217) 782-6996

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ALLOCATION

IT 96-0154 12/11/1996 General Information Letter: IITA Section 303(a) states that any item of [income] to the extent such item constitutes nonbusiness income, together with any item of deduction directly allocable thereto, shall be allocated by any person other than a resident as provided in this Section.

ALTERNATIVE APPORTIONMENT

IT 96-0144 10/31/1996 General Information Letter: Denial of a petition for alternative allocation (separate accounting).

IT 96-0159 12/17/1996 Private Letter Ruling: Request for alternative allocation granted.

BASE INCOME

IT 96-0132 10/02/1996 General Information Letter: The starting point for computing Illinois income tax is federal adjusted gross income (IITA Section 203(a)(1)). An item excluded from federal AGI will be similarly excluded from Illinois taxable income unless it is specifically required to be added back.

IT 96-0137 10/15/1996 General Information Letter: Section 203(h) of the Illinois Income Tax Act provides that except as expressly provided by Section 203, there shall be no modification or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under the Act for such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

IT 96-0141 10/22/1996 General Information Letter: Section 203 (a)(1) of the Illinois Income Tax Act provides that in the case of an individual, base income means an amount equal to the taxpayer's (federal) adjusted gross income for the taxable year subject to certain addition and subtraction modifications.

IT 96-0142 10/28/1996 General Information Letter: Pursuant to

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Section 203(a) and (b) of the Illinois Income Tax Act, Illinois begins with federal adjusted gross income or federal taxable income and applies certain statutory addition and subtraction modifications to arrive at Illinois base income for individuals and corporations, respectively.

IT 96-0146 11/13/1996 General Information Letter: The starting point for determining Illinois base income is an individual's federal adjusted gross income. To the extent that P.L. 104-188, the federal "Small Business Job Protection Act", amends the Internal Revenue Code with respect to limiting the exclusion of non-punitive damages the amounts included in federal adjusted gross income will be an element of Illinois base income.

IT 96-0160 12/13/1996 General Information Letter: Discussion of the effect of Public Law 104-95 on the ability of the State to tax non-qualified deferred compensation.

IT 96-0162 12/26/1996 General Information Letter: In the case of an individual, base income means an amount equal to the taxpayer's federal adjusted gross income subject to certain statutory addition and subtraction modifications (See IITA Section 203(a)).

BULK SALES

IT 96-0157 12/11/1996 Private Letter Ruling: Based on the information provided the transaction described does not constitute the sale of a "major part" of the real property within the meaning of Section 902(d) of the Illinois Income Tax Act and so no obligation to file a notice under Section 902(d) results from the transaction.

IT 96-0158 12/11/1996 Private Letter Ruling: Based on the information provided the transaction described does not constitute the sale of a "major part" of the real property within the meaning of Section 902(d) of the Illinois Income Tax Act and so no obligation to file a notice under Section 902(d) results from the transaction.

CAPITAL GAINS

IT 96-0149 11/18/1996 General Information Letter: General

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discussion of the continuing viability of IITA Section 601(b)(4) in light of amendments made to the Internal Revenue Code subsequent to the enactment of the Illinois Income Tax Act.

CREDITS - REPLACEMENT TAX INVESTMENT

IT 96-0140 10/22/1996 General Information Letter: P.A. 88-141 amended Section 201(e)(2)(D) to change the focus for determining whether property qualifies for the Replacement Tax Investment Credit from the use of the property to the nature of the taxpayer's business operation.

IT 96-0152 12/09/1996 General Information Letter: P.A. 89-519 extended the sunset date for the replacement tax investment credit to binding contracts entered into prior 1/1/04.

EXEMPTIONS

IT 96-0153 12/09/1996 General Information Letter: Section 100.2470 of the Department's rules sets forth a list of those state and local obligations that have been statutorily exempted from Illinois income taxation.

IT 96-0163 12/26/1996 General Information Letter: Pursuant to Section 204(a) of the Illinois Income Tax Act, an organization that is exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code is also, without application, exempt from Illinois income taxation unless it has unrelated business taxable income as determined under Section 512 of the Internal Revenue Code.

EXEMPT ORGANIZATIONS

IT 96-0133 10/03/1996 General Information Letter: General discussion of the interrelationship between federal income tax exempt status and Illinois law.

MISCELLANEOUS

IT 96-0143 10/29/1996 General Information Letter: In response to a question from a company that publishes various publications on state and local taxation, P.L. 104-0188 retroactively reinstated the exclusion for

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employer-provided educational assistance payments. Taxpayers who filed Illinois returns for the period covered by the retroactive exclusion of these payments from adjusted gross income may file amended Illinois returns for periods within statute. Illinois has no expedited refund procedure with respect to such claims.

OVERPAYMENTS

IT 96-0148 11/14/1996 General Information Letter: In order for a taxpayer to challenge the Department's determination that an amount previously paid by the taxpayer was properly owed the Department, the taxpayer must file a claim for refund on a form IL-1040-X within 3 years after the date the return was filed, or one year after the date the tax was paid, whichever is the later (See IITA Section 911(a)).

S CORPORATIONS

IT 96-0135 10/10/1996 Private Letter Ruling: This Private Letter Ruling has been revoked. This ruling has been rescinded by IT 97-0009-PLR. Response to a ruling request related to S corporation taxation.

IT 96-0136 10/15/1996 Private Letter Ruling: Based upon the facts presented the Department will treat the taxpayer's return for a particular tax year at issue as a timely and valid election to forgo the carryback of its loss incurred.

IT 96-0138 10/16/1996 General Information Letter: In response to his question the taxpayer representative was advised that Illinois statutes and regulations have never adopted the prohibition in Section 1371(b) of the Internal Revenue Code against carryovers of C corporation losses to S corporation years.

IT 96-0139 10/16/1996 General Information Letter: In response to his question the taxpayer representative was advised that Illinois statutes and regulations have never adopted the prohibition in Section 1371(b) of the Internal Revenue Code against carryovers of C corporation losses to S corporation years.

SUBTRACTION MODIFICATIONS - QUALIFIED PENSION PLANS

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IT 96-0134 10/07/1996 General Information Letter: Response to general questions about Illinois taxation of pension benefits.

IT 96-0156 12/11/1996 General Information Letter: Section 203(a)(2)(E) of the Illinois Income Tax Act provides a subtraction modification for all amounts included in a taxpayer's federal adjusted gross income as distributions under the provisions of any retirement or disability plan which is a federally tax-qualified plan under the provisions of certain specifically listed Sections of the Internal Revenue Code.

UNIFORM PENALTY AND INTEREST ACT

IT 96-0161 12/26/1996 General Information Letter: Section 3-8 of the UPIA provides for the abatement of penalties and interest if the taxpayer shows that his failure to file a return at the required time was due to reasonable cause. The Department has adopted reasonable cause rules at 700.400.

UNITARY

IT 96-0145 11/06/1996 General Information Letter: General discussion of the definition of the term "unitary business group."

WITHHOLDING

IT 96-0150 11/18/1996 General Information Letter: General discussion of withholding issues related to Illinois residents employed by out-of-state employers.

IT 96-0151 11/19/1996 General Information Letter: General discussion of when income tax withholding is required by employers.

WITHHOLDING - EXEMPTIONS

IT 96-0147 11/13/1996 General Information Letter: Although Illinois income tax withholding requirements generally parallel federal requirements, Section 203(a)(2)(F) of the Illinois Income Tax Act provides a subtraction modification from base income for certain retirement plans, disability plans and pension distributions. Section 100.7000(a) of the

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Department's rules provides that Illinois income tax is not required to be withheld on any compensation paid in this State of a character which is not subject to federal income tax withholding.

WITHHOLDING - OTHER RULINGS

IT 96-0155 12/11/1996 General Information Letter: Section 710(a) of the Illinois Income Tax Act addresses the withholding of Illinois income tax when lottery payments are made to nonresidents.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 29, 1997 through May 5, 1997 and have been scheduled for review by the Committee at its May 13, 1997 meeting in Springfield or June 17, 1997 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
6/12/97	Department of Labor, Whistleblower Protection (56 Ill Adm Code 353)	2/7/97 21 Ill Reg 1500	5/13/97
6/13/97	Illinois Racing Board, Countdown (11 Ill Adm Code 317)	3/7/97 21 Ill Reg 2929	5/13/97
6/13/97	Illinois Racing Board, Match Rival (11 Ill Adm Code 315)	3/7/97 21 Ill Reg 2936	5/13/97
6/13/97	Illinois Racing Board, Show Quinella (11 Ill Adm Code 316)	3/7/97 21 Ill Reg 2940	5/13/97
6/13/97	Department of Public Aid, Food Stamps (89 Ill Adm Code 121)	2/28/97 21 Ill Reg 2820	5/13/97
6/14/97	Department on Aging, Community Based Residential Facilities Demonstration Project (89 Ill Adm Code 280)	1/24/97 21 Ill Reg 1110	5/13/97
6/18/97	Illinois Student Assistance Commission, Grant Program for Dependents of Police or Fire Officers (23 Ill Adm Code 2732)	2/14/97 21 Ill Reg 1921	6/17/97
6/18/97	Illinois Student Assistance Commission, Grant Program for Dependents of Correctional Officers (23 Ill Adm Code 2731)	2/14/97 21 Ill Reg 1935	6/17/97

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

OFFICE OF THE COMPTROLLER

6/18/97	Office of the Comptroller, Merit Employment Code (80 Ill Adm Code 500)	3/7/97 21 Ill Reg 2463	6/17/97	
6/18/97	Department of Natural Resources, Department of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 600)	3/21/97 21 Ill Reg 3363	6/17/97	
6/18/97	Department of Natural Resources, Department of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 625)	3/21/97 21 Ill Reg 3375	6/17/97	
6/18/97	Department of Natural Resources, Department of Americans with Disabilities Act Grant Program (17 Ill Adm Code 3020)	3/21/97 21 Ill Reg 3383	6/17/97	
6/18/97	Department of Natural Resources, Department of Americans with Disabilities Act Grievance Procedure (4 Ill Adm Code 600)	3/21/97 21 Ill Reg 3388	6/17/97	

PROCLAMATION

97-226
PEACE IN THE STREETS WEEK (PEACE)

Whereas, Communities Dare to Care is an Illinois organization with goals to raise the consciousness of every citizen across this nation and to educate them about the problems of gangs, drugs, and violence in cities and states nationwide; and

Whereas, I, Jim Edgar, am honored to serve as honorary chair of Peace in the Streets Week; and

Whereas, Peace in the Streets Week will include seminars, presentations, and workshops on the dangers of the power of gangs, drugs, and violence for parents and community residents; and will encourage the cooperation of local service organizations, government agencies, and other groups; and

Whereas, Communities Dare to Care is currently focusing on three projects, an anti-violence rally, Save Our Children, The Endangered Species Conference, and Peace in the Streets Memorial Service; and

Whereas, the anti-violence rally will bring together parents, teachers, community residents, churches, organizations, and businesses of metropolitan Chicago to focus on heightening the awareness of the dangers of gangs, drugs, and violence; and

Whereas, Save Our Children, The Endangered Species Conference is presented by Communities Dare to Care and sponsored by Linden Oaks Hospital to bring together parents, community residents, churches, organizations, and businesses of the metropolitan Chicago area to focus on our youth and their future, and to begin a new movement to save our children; and

Whereas, Project Peace in the Streets Memorial Service, chaired by Reverend Willie G. Smith of Second Mount Vernon Baptist Church and co-sponsored by parents and children who have lost loved ones due to street violence, will be the culminating event of Peace in the Streets Week; and

Whereas, Communities Dare to Care wants to emphasize to parents, schools, churches, businesses, organizations, and community residents the importance of their involvement in regaining the leadership and control of their streets, their communities, and their children;

Therefore I, Jim Edgar, Governor of the State of Illinois, proclaim May 19-25, 1997, as PEACE IN THE STREETS WEEK in Illinois.

Given by the Governor April 18, 1997.

Filed by the Secretary of State May 2, 1997.

97-237
WICS DAY

Whereas, Women in Community Service (WICS) has designated the month of April to recognize its volunteers; and

Whereas, founded in 1964, WICS is a national nonprofit organization that seeks to reduce the number of young women living in poverty by promoting self-reliance and economic independence; and

Whereas, each year, WICS volunteers and staff help more than 150,000 low-income women and young adults by providing support services, mentoring and workforce preparation programs nationwide; and

Whereas, WICS Region 5 plans to hold its recognition program, "Breaking

PROCLAMATIONS

Barriers and Building Communities." in conjunction with the Cosmopolitan Section of the National Council of Negro Women's 23rd Annual Luncheon and Fashion Show at the Palmer House in Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 26, 1997, as WICS DAY in Illinois.

Issued by the Governor April 24, 1997.
Filed by the Secretary of State May 2, 1997.

97-238

CHILDREN'S EMOTIONAL AND BEHAVIORAL DISORDERS AWARENESS WEEK

Whereas, a growing number of children are recognized as having emotional, behavioral, and neurobiological disorders; and

Whereas, one in 20 children and adolescents is severely emotionally disturbed (SED); and

Whereas, members of the community lack information and understanding of these disorders; and

Whereas, costs to these children, their families, and the community are exorbitant in dollars, lost potential, and heartache; and

Whereas, there are many ways for adults to affect the youth of our states as parents, grandparents, neighbors, friends, counselors, teachers, and through churches and businesses; and

Whereas, it is essential that everyone have access to education, information, and training; and

Whereas, children and their families have the right to stigmatize community-based services;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 4-10, 1997, as CHILDREN'S EMOTIONAL AND BEHAVIORAL DISORDERS AWARENESS WEEK in Illinois.

Issued by the Governor April 25, 1997.
Filed by the Secretary of State May 2, 1997.

97-239

EMERGENCY MEDICAL SERVICES FOR CHILDREN DAY

Whereas, emergency medical services for children (EMSC) recognizes that children have unique physiological responses to illness and injury; and

Whereas, EMSC provides a specialized emergency medical service to the State of Illinois; and

Whereas, Illinois' emergency medical services are essential to the State of Illinois; and

Whereas, children's emergency care needs are unique and specialized; and

Whereas, children's emergency care needs are more than just medical; and

Whereas, EMSC's emergency medical services are essential to the State of Illinois; and

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PROCLAMATIONS

Issued by the Governor April 25, 1997.
Filed by the Secretary of State May 2, 1997.

97-240

BILL OLIVER DAY

Whereas, Bill Oliver was born in Elkhart, Illinois, the son of William F. St. and Ollie Mae Oliver; and

Whereas, Bill has been a Decatur resident for over 40 years; and

Whereas, he was elected to the Decatur City Council on April 19, 1977; and

Whereas, Bill is retiring as Decatur City Councilman after serving five consecutive four-year terms; with four mayors, 21 council members, two city clerks and three city managers; and

Whereas, in addition to his responsibilities at the City Council, Bill has served the citizens of Decatur in numerous organizations, including the police auxiliary, the Human Relations Commission, the Decatur Area Convention and Visitors Bureau, and the Decatur Housing Authority; and

Whereas, Bill is an EMANON charter member, 32nd Degree Mason, UAW Retiree Club member and has taken part in planning the Decatur Celebration; and

Whereas, Bill has worked tirelessly for the citizens of Decatur during his 20-year tenure on the City Council; and it is to be congratulated for all his achievements;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 30, 1997, as BILL OLIVER DAY in Illinois and extend my congratulations to Bill on his retirement from the Decatur City Council.

Issued by the Governor April 25, 1997.
Filed by the Secretary of State May 2, 1997.

97-241

GROUNDWATER PROTECTION MONTH

Whereas, call of Illinois citizens, policy-makers of Illinois, community water users, nearby agricultural residents and a significant number of Illinois industries rely on groundwater; and

Whereas, groundwater resources are finite and non-renewable; and

Whereas, groundwater is used to provide water for drinking water, irrigation, and other uses; and

Whereas, groundwater is a vital resource that is essential to the health and well-being of the State of Illinois; and

Whereas, the Illinois Department of Natural Resources is responsible for the protection and management of the State's natural resources; and

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PROCLAMATIONS

with a voluntary assessment system to protect their groundwater resources, and this program is implemented locally by soil and water conservation districts and community-based efforts which include public health departments throughout Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1997 as **GROUNDWATER PROTECTION MONTH** in Illinois and encourage all citizens, businesses, industries and local governments to take appropriate actions to protect Illinois' groundwater resources. These actions include: learning about groundwater; safeguarding public health; protecting community wellheads; advancing stewardship in groundwater protection areas; and recommending Illinois FarmAysst and local groundwater awareness programs for private wellhead protection.

Issued by the Governor April 28, 1997.

Filed by the Secretary of State May 2, 1997.

97-242

MUSIC WEEK

Whereas, the period of May 4-11, 1997, will mark the 74th annual observance of National Music Week; and

Whereas, music is a vital part of the culture of every civilized nation and the people of the United States are proving themselves to be a great music-producing and music-loving nation; and

Whereas, it is incumbent upon all of us to join together to advance the cause of music as an art and harmonious force and to extend the radius of its influence among nations, groups, and individuals; and

Whereas, the pursuit of music, whether it be through study, composing, listening, performing, or participation, gives rich experience in human life; and

Whereas, the National Federation of Music Clubs through National Music Week provides an opportunity for the organized musical forces of the country, as well as religious and educational and civic groups, to join music lovers in emphasizing the joys and pleasures to be gained from making music;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 4-11, 1997, as **MUSIC WEEK** in Illinois.

Issued by the Governor April 28, 1997.

Filed by the Secretary of State May 2, 1997.

97-243

NATIONAL ASSOCIATION OF HUMAN RIGHTS WORKERS DAY

Whereas, the National Association of Human Rights Workers (NAHRW) was established in the State of Illinois in 1947; and

Whereas, its purpose is to facilitate the exchange of knowledge, experience and research among governmental agencies and private organizations dealing with racial, religious, ethnic, cultural and protected class issues; and

Whereas, the NAHRW also strives to encourage the collection, compilation and dissemination of information and research among organizations and individuals engaged in the improvement of inter-group relations; and

PROCLAMATIONS

Whereas, the NAHRW Regional Conference will be held on May 1-3, 1997, in Matteson, Illinois; and

Whereas, the NAHRW in Illinois will be celebrating its 50th anniversary; Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1, 1997, as **NATIONAL ASSOCIATION OF HUMAN RIGHTS WORKERS DAY** in Illinois.

Issued by the Governor April 28, 1997.

Filed by the Secretary of State May 2, 1997.

97-244

PAN-LACONIAN FEDERATION OF UNITED STATES
AND CANADA, INC. WEEK

Whereas, the Laconian Society of Washington, D.C., will be hosting the 50th Golden Anniversary Convention of the Pan-Laconian Federation of U.S.A. and Canada on June 23-29, 1997; and

Whereas, as a result of the 50th Anniversary Convention, the Laconian Society of Washington, D.C., will produce a souvenir album of ads and messages from individuals, businesses, organizations and dignitaries who would like to show their support throughout U.S.A., Canada and Greece; and

Whereas, members of the Pan-Laconian Federation give scholarships to youths, provide financial support to Greek schools, churches, hospitals, nursing homes, and promote the Greek language and culture;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 23-29, 1997, as the **PAN-LACONIAN FEDERATION OF UNITED STATES AND CANADA, INC. WEEK** in Illinois.

Issued by the Governor April 28, 1997.

Filed by the Secretary of State May 2, 1997.

97-245

PHI ALPHA ZETA OF LAMBDA

Whereas, Lambda Chi Alpha International Fraternity established a colony of Lambda Chi Alpha Fraternity at Eastern Illinois University in 1975; and

Whereas, after working diligently for two years to meet the requirements of the Lambda Chi Alpha International Fraternity to obtain a charter, the group of men were rewarded with the designation of Phi Alpha Zeta of Lambda Chi Alpha on February 5, 1977; and

Whereas, the Phi Alpha Zeta of Lambda Chi Alpha has initiated a total of 513 men into their Brotherhood; and

Whereas, Phi Alpha Zeta of Lambda Chi Alpha Alumni stress the importance of scholarship and has created the Lambda Chi Alpha Fraternity Founders Scholarship through the Eastern Illinois University Foundation with a corpus of more than \$30,000 to support continuing participation of chapter members in general assemblies, leadership seminars and regional conclaves; and

Whereas, to celebrate the Phi Alpha Zeta of Lambda Chi Alpha's 20th anniversary of receiving their charter, a banquet will be held on May 3, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 3, 1997, as **PHI ALPHA ZETA OF LAMBDA CHI ALPHA DAY** in Illinois.

Issued by the Governor April 28, 1997.

Filed by the Secretary of State May 2, 1997.

PROCLAMATIONS

97-246

BILL HOGAN, JR. DAY

Whereas, the Bill Hogan, Jr. Tribute, sponsored by the labor, business and convention communities to benefit Little City Foundation, will be held on May 7, 1997, at the Hyatt Regency Chicago; and

Whereas, the event will salute the remarkable career of Bill Hogan, Jr. for his dedication to the State of Illinois as a leader in the areas of labor, business and convention; and

Whereas, proceeds of the event will enable Little City Foundation to continue and expand its many life-enriching programs that improve the quality of life for children and adults with mental retardation and other developmental challenges; and

Whereas, the Bill Hogan, Jr. Tribute will be chaired by William A. Marovitz, with numerous others who contributed both time and talents in order to make the event a success;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 7, 1997, as BILL HOGAN, JR. DAY in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-247

CUSTOM CHARITY HOUSE DAY

Whereas, the Home Builders Association of Lake County (HBALC) is a not-for-profit trade association established in 1962; and

Whereas, each year, HBALC undertakes a community service program in addition to the educational and marketing opportunities provided to members; and

Whereas, this year's community service project, "Custom Charity House," stands to benefit the following charitable organizations: the Children's Memorial Hospital, the Juvenile Diabetes Foundation, the Omni Youth Services, the Riverside Foundation, and the Youth and Family Counseling Center; and

Whereas, the idea of HBALC's "Custom Charity House" was conceived by Project Chairman Mark Perlman, and Chic Martin of Chic Martin Signature Homes assisted in overseeing the construction of the home, which was designed by Styczynski, Walker & Associates; and

Whereas, the Home Builders Association of Lake County was assisted by numerous contributors in completing the home: Air Pressure Dampproofing; B & Z Electrical; Bank of Waukegan; Cedar Roofing; Central Vacuum; Chic Martin Signature Homes; Clay Products; Coleman Floor Company; Concept Group; Deckert Insulation; Drake Concrete; Drywall Interiors; Earthstone; 84 Lumber; Elegant Stair Co.; Empeco, Incorporated; First American Title; Hayden Landscaping; Idlewood Electric; Impo Glaztile, Inc.; Ivanhoe Contractors Association; Kadisak Tile; Keystone Plumbing; Kohler; Lewis Carpet; Loewen Windows; M. Ecker & Company; Manhard Consulting; Markgraf's Heating; Mid America Tile, L.P.; North Shore Security; Northbrook Blueprint; Oakton Distributors; Pease Construction; Residential Steel Fabricators; Sears Contract Sales; Seigle's; Shutters Unlimited; Styczynski, Walker & Associates; Square D Electric; Stephani Masonry; TUM Carpentry; Trans Ceramica; Warner Company; Wilson Art;

PROCLAMATIONS

and Wood Mode;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 5, 1997, as CUSTOM CHARITY HOUSE DAY in Illinois, and commend all of those involved in this project for their dedication to their community.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-248

FAMILY PEACE DAY

Whereas, Family Peace Day is a first-annual community service program that will be held on May 7, 1997, at the Richard J. Daley Center in Chicago; and

Whereas, the goal of Family Peace Day is to focus on how to combat domestic violence, build healthy families, address legal issues and inform Illinois citizens of the many public and community resources available to combat domestic violence; and

Whereas, Family Peace Day is a joint project of The Women's Bar Association of Illinois and The Black Women Lawyers' Association of Greater Chicago, Inc.; and

Whereas, Honorary Co-Chairs for Family Peace Day are Chicago Mayor Richard M. Daley, Illinois Supreme Court Justice Mary Ann G. McMorrow, Cook County Circuit Court Chief Judge Donald O'Connell and Cook County Board President John H. Stroger, Jr.; and

Whereas, poetry, prose and poster contests will be held for Chicago public school students as part of Family Peace Day activities; and

Whereas, a Family Peace Day Expo open to the public will offer free legal and medical advice as well as counseling or referrals from social service and health care providers; and

Whereas, a luncheon awards ceremony will honor people who have made significant contributions to the administration of justice in the areas of domestic violence and abuse;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 7, 1997, as FAMILY PEACE DAY in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-249

FOSTER PARENT APPRECIATION MONTH

Whereas, to foster means to nourish, cherish and encourage, which is what foster parents do for emotionally needy children whose natural parents can no longer provide them with care; and

Whereas, foster parents meet a very special need in our society by ensuring these children receive attention, respect, love, understanding, compassion, and health and educational services; and

Whereas, thousands of caring adults in Illinois have opened their hearts as well as their homes to provide a loving and stable environment for more than 40,000 children; and

Whereas, the contributions of Illinois foster parents to the welfare of these children are incalculable and irreplaceable; and

PROCLAMATIONS

Whereas, Illinois foster parents deserve our gratitude and respect for the work they do every day to ensure our children receive the support they need at a traumatic time in their lives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1997 as FOSTER PARENT APPRECIATION MONTH in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-250

ILLINOIS VIETNAM VETERANS MEMORIAL TENTH ANNIVERSARY YEAR

Whereas, Richard Stahl and Michael Ferguson, two Illinois Vietnam Veterans, were inspired by the dedication of the National Vietnam Memorial in Washington, D.C. and were the impetus behind the drive to construct a memorial in Illinois; and

Whereas, after Stahl's death in 1984, Ferguson became chairman of the Illinois Vietnam Veterans Memorial Fund Committee, and the committee started to raise the \$1.25 million that was needed to build the memorial; and

Whereas, the project architect, Vietnam veteran Gary Likins, developed a plan for the memorial symbolic of the unity of all men and women serving their country; and

Whereas, the memorial was built on land at the Oak Ridge Cemetery in Springfield; and

Whereas, the Illinois Vietnam Veterans Memorial was dedicated on May 7, 1988, with the lighting of the eternal flame and honors all those -- especially the 2,970 Illinois servicemen who died or are still missing -- who served in the Vietnam War; and

Whereas, the 10th anniversary of the memorial will be commemorated from May 3, 1997, through May 2, 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 3, 1997, through May 2, 1998, as ILLINOIS VIETNAM VETERANS MEMORIAL TENTH ANNIVERSARY YEAR in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-251

JACK EHRESMAN DAY

Whereas, Jack Ehresman worked for more than 44 years at the Peoria Journal Star and was that newspaper's outdoor columnist for more than 30 years; and

Whereas, Jack wrote dozens of articles promoting the Illinois outdoors for numerous regional and national publications during his distinguished career; and

Whereas, Jack served as an officer for several outdoor organizations and won numerous awards for writing, including the "Illinois Outdoor Writer of the Year" award; and

Whereas, Jack promoted the well-being of the Illinois River and Valley through his love of waterfowling; and

Whereas, Jack is considered to be the dean of the Illinois outdoor writers by his peers;

PROCLAMATIONS

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 5, 1997, as JACK EHRESMAN DAY in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-252

NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE DAY

Whereas, the National Association of Letter Carriers (NALC) and the United States Postal Service will be conducting their fifth annual nation-wide food drive on May 10, 1997; and

Whereas, last year's food drive was a tremendous success, collecting more than 45 million pounds (some 22,500 tons) of food nationwide from postal customers for delivery to waiting local food banks and local food pantries, making it the largest one-day collection of food in this nation's history; and

Whereas, the letter carriers collected more than 2 million pounds of food across the state; and

Whereas, more than 3,500 cities and towns participated across the nation last year; and

Whereas, this year, the NALC and the USPS will be collecting these items in more than 276 cities and towns in the State of Illinois; and

Whereas, this year's state goal has been set at 2 million pounds;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 10, 1997, as NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE DAY in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-253

OPTIMIST DAY OF NON-VIOLENCE

Whereas, violence has become a serious and increasing problem in our communities; and

Whereas, our vitality as a community and as a society depends to a great degree on the willingness of each individual member to stand up and make a positive difference; and

Whereas, the 150,000 volunteer members of Optimists Clubs across North America dedicate themselves to making a positive change in their communities; and

Whereas, the Optimist Club of Belleville is holding Optimist Non-Violence Day to call attention to the need for change and the creation of peace and community spirit;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 19, 1997, as OPTIMIST DAY OF NON-VIOLENCE in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-254

RESPECT FOR LAW WEEK

PROCLAMATIONS

Whereas, the crime rate in our community as well as in our neighboring communities, continues to rise every day; and

Whereas, the problems of crime touch and affect all segments of our society and can erode the moral and economic strengths of our communities; and

Whereas, our vitality as a state and as a society depends to a great degree on the willingness of each individual member to give of his or her time and talents in volunteer service; and

Whereas, Optimist Clubs and their 150,000 dedicated volunteer members continue to sponsor and support programs aimed at combating crime and encourage a respect for law;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 5-11, 1997, as RESPECT FOR LAW WEEK in Illinois.

Issued by the Governor April 29, 1997.

Filed by the Secretary of State May 2, 1997.

97-255

57TH STREET ART FAIR DAYS

Whereas, the 57th Street Art Fair is the oldest juried art fair in the Midwest; and

Whereas, the fair annually attracts some 100,000 visitors and tourists to Chicago's Hyde Park neighborhood, the University of Chicago, and the Museum of Science and Industry, Oriental Institute and Smart museum; and

Whereas, the fair was the first exhibition opportunity for many Chicago artists who went on to international prominence, artists such as Richard Hunt, Claes Oldenburg, Gertrude Abercrombie, Ruth Duckworth, Nancy Spero and Robert Natkin; and

Whereas, the fair is a non-profit organization conducted by a 15-member group of volunteers solely for the benefit of exhibiting artists; and

Whereas, the 57th Street Art Fair will celebrate its 50th anniversary in 1997, with the fair being held June 7-8, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 7-8, 1997, as 57TH STREET ART FAIR DAYS in Illinois.

Issued by the Governor April 30, 1997.

Filed by the Secretary of State May 2, 1997.

97-256

CHRISTIAN TABERNACLE CHURCH DAY

Whereas, Christian Tabernacle Church began in 1960 by Maceo L. Woods; and

Whereas, Christian Tabernacle Church moved into an old theatre building in 1962, which Pastor Woods eventually bought. This building became the official home of Christian Tabernacle Church; and

Whereas, Christian Tabernacle Church has been very involved in gospel music, forming the Gospel Supreme Concert Choir, which later became known as the Gospel Supreme with Christian Dignity; and

Whereas, Pastor Woods has been a driving force behind the musical success of the Christian Tabernacle Church. The choir has performed at such places as Madison Square Garden and the Apollo Theatre in New York and has been named to the Hall of Fame at the Harold Washington Library in Chicago; and

PROCLAMATIONS

Whereas, Christian Tabernacle Church has been fortunate to have committed congregation members such as the late Nancy "Gram" Anderson and Fred and Rosa Woods; and

Whereas, Christian Tabernacle Church is celebrating its 37th year with a celebration prayer service and a week-long anniversary service with the theme, "Investing in the Kingdom;"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 11, 1997, as CHRISTIAN TABERNACLE CHURCH DAY in Illinois.

Issued by the Governor April 30, 1997.

Filed by the Secretary of State May 2, 1997.

97-257

DEFENSE TRANSPORTATION DAY

Whereas, the economic well-being of this state and of this nation is dependent upon a sound transportation system; and

Whereas, the transportation policies implemented by state and federal regulatory bodies have provided this country with the most effective transportation services that exist anywhere; and

Whereas, the impressive growth of the various modes of transportation has been in response to the public's increasing demands for specialized, flexible, low-cost, efficient transportation services to meet the changing business patterns of this country; and

Whereas, the military security of this country and of the world depends on the capacity of the transportation industry to move people and material; and

Whereas, the men and women who constitute the workforce of this vast transportation industry should be recognized for their outstanding contribution to the daily needs of every farm, home and business in the communities of this State and this country; and

Whereas, Illinois is the home of the United States Transportation Command, this nation's premier defense transportation organization;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 16, 1997, as DEFENSE TRANSPORTATION DAY in Illinois.

Issued by the Governor April 30, 1997.

Filed by the Secretary of State May 2, 1997.

Rules acted upon during the quarter of April 1 through June 30, 1997 (Issues 17-28) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-2. The letter "R" designates a rule that is being repealed. The quarterly Sections Affected Index and Cumulative Index will be published in Issue 29 (July 15); Issue 42 (October 17); and Issue 3 (January 16, 1998). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

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